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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 248

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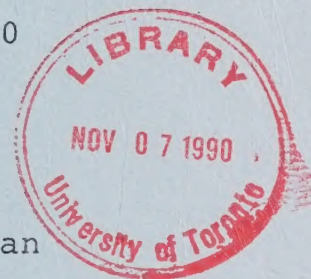
BEFORE:

A. KOVEN

Chairman

E. MARTEL

Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the offices of the Ontario
Highway Transport Board, Britannica Building,
151 Bloor Street West, 10th Floor, Toronto,
Ontario, on Tuesday, October 23rd, 1990,
commencing at 9:00 a.m.

VOLUME 248

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



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1468	Two-page letter dated September 24, 1990 from Roger Beauvais, Reeve, Corporation of the Township of Nakina.	44566
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<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1474	16-page excerpt from the Timmins and Gogama District Land Use Guidelines, Revision No. 84-003, Timmins and Revision No. 84-002, Gogama, containing Timmins part only.	44733

1 ---Upon commencing at 9:10 a.m.

2 MADAM CHAIR: Please be seated.

3 We received a letter dated September 24th
4 from the Corporation of the Township of Nakina and Mr.
5 Pascoe will read it into the record and we'll give it
6 an exhibit number. It will be Exhibit No. 1468.

7 MR. PASCOE: Submission by the Township
8 of Nakina.

9 "It is the belief of the people of
10 Nakina that the forests should be for the
11 use of all Canadians. As person has
12 his/her own view of best usage,
13 therefore, multi-use of the forest should
14 be practised.

15 The forests of Northern Ontario,
16 being boreal, are completely different
17 from those of southern Ontario. Their
18 treatment, usage and care should also
19 be different. It is our contention that
20 the best people to oversee the special
21 care and usage of northern forests are
22 the people of the communities that the
23 forest surrounds. We realize that we are
24 unable to manage such an extensive
25 resource without governmental aid,

1 however, we would like to become full
2 partners with the government rather than
3 merely recipients of services.

4 It is not with only the governments
5 than the communities must form a
6 partnership, but with the large companies
7 which harvest the trees as well. In the
8 past few years these large companies have
9 begun to exert a much improved social
10 conscience with regards to forest
11 management but they have far to go. The
12 various sectors of the community have
13 differing needs so far as forest
14 management is concerned. The harvesting
15 companies must take into consideration
16 the needs of each of these diverse
17 sectors.

18 An example of the problems
19 besetting the varying sector needs can be
20 seen in the attitudes toward harvest
21 roads built by the timber companies.
22 Local fishermen, hunters and even some
23 tourist operators may welcome the roads
24 being built by the companies, while
25 Wilderness tourist outfitters and

1 operators may find their investments
2 becoming liabilities as the roads
3 encroach upon their isolated lakes. Only
4 by sitting down with the owners and
5 operators of tourist facilities can such
6 a problem be ironed out. When looked at
7 from the point of view of a community
8 such as Nakina that sees tourism as one
9 of the major legs in its financial
10 platform with forestry another, the
11 resolution of such a problem is vital.

12 Vital also is the continued ability
13 of our forests to produce a livelihood
14 for our citizens. In the forests
15 surrounding Nakina the main, perhaps one
16 should say only form of harvesting is
17 clearcutting. Would not selective
18 cutting be a better option for areas
19 reaching up to lakes, roadsides or
20 private properties?

21 As a possible 80 to 100 years may
22 pass before an area that has been
23 clearcut can be harvested again, should
24 we not be looking at generational use of
25 the lands; that is, during the years

1 immediately after clearcutting before the
2 young trees have gained a foothold,
3 approximately ten years, the land could
4 be used for berry harvesting or deer
5 farming. During the next 20 years a
6 firewood operation could provide thinning
7 for the young forest. This would
8 improve both the appearance of the forest
9 and its ability to produce larger trees.
10 During the next 40 years selective
11 cutting by private individuals could
12 eliminate bug-infested, weather-damaged
13 or otherwise unhealthy trees and, at the
14 same time, provide a living to jobbers.
15 During the final 10 to 20 years, the
16 forest could be used for recreational
17 activity such as camping, hiking or
18 skiing. By then the trees would be
19 mature and the cycle could begin again.
20 (These have just been suggested
21 activities, I am sure that creative minds
22 could come up with many more ideas).

23 The Township of Nakina sees these
24 hearings as a positive move in the
25 efforts to use the forests in a more

1 reasonable way. Each and every one of us
2 bears the burden of the future, not only
3 for ourselves but for our children. We
4 hope that the final outcome of the
5 hearings will find a full partnership
6 between the diverse interests who wish to
7 keep the forest as a resource that will
8 remain forever renewable.

9 Respectfully submitted."

10 And it's signed Mr. Roger Beauvais,
11 Reeve.

12 MADAM CHAIR: Thank you, Mr. Pascoe. And
13 that's a two-page letter.

14 ---EXHIBIT NO. 1468: Two-page letter dated September
15 24, 1990 from Roger Beauvais,
16 Reeve, Corporation of the
Township of Nakina.

17 MADAM CHAIR: Mr. Lindgren?

18 MR. LINDGREN: Thank you, Madam Chair,
19 and good morning. Good morning, Mr. Martel.

20 Good morning, Mr. Tunnickliffe.

21 GRANT TUNNICLIFFE, Resumed

22 CONTINUED DIRECT EXAMINATION BY MR. LINDGREN:

23 Q. At the close of yesterday's
24 proceeding, Mr. Tunnickliffe, we were discussing
25 Appendix F in the source book, and do you have that

1 document before you?

2 A. Yes, I have.

3 Q. Can I ask you to turn to the second
4 page, and in the last full paragraph there's a
5 statement that:

6 "In order to allay the fears of cottagers
7 and to make a clear policy understood by
8 all, we would recommend a 500-metre
9 timber reserve be established around our
10 lake which would not be harvested for the
11 next 25 years."

12 Now, this represents a change from the
13 previous correspondence wherein you had asked for a
14 750-metre reserve.

15 First of all, can you explain to the
16 Board why it's been changed to 500 metres, and can you
17 also explain the rationale for the 500-metre reserve?

18 A. I think we changed the request from
19 750 to 500 metres with a feeling of compromise; that we
20 thought that we were in a position where we should make
21 a change. There was considerable discussion, as a
22 matter of fact it started out by being a one-kilometre
23 request, but that was never put before the Ministry of
24 Natural Resources that was -- the Association agreed to
25 ask for 750 and then we dropped down to 500 metres

1 thinking that that is something that we could live
2 with. So it was in a spirit of compromise that we had
3 dropped that request to 500 metres.

4 Q. And what is the rationale for the
5 500-metre reserve?

6 A. There are, I think, several reasons
7 why we were asking for 500 metres. One is to protect
8 the ski trail that we have and the walking trails that
9 we have developed both now and in the future; to save
10 some original bush from the tree farm that is taking
11 over the landscape of northern Ontario; to give animals
12 and the whole biotic community in our areas that
13 represent -- which is represented by animal life like
14 the pileated woodpecker, the pine marten, the forest
15 nesting warblers, the osprey that we quite often see
16 flying over our lake - although there isn't an osprey
17 nesting site that we have found as yet - but osprey do
18 visit the area; and the various plants that I mentioned
19 yesterday.

20 We're asking for 500 metres to prevent
21 daylight from being seen between the trees which we're
22 very concerned with when we visit other lakes. There
23 are examples that we've seen where the 120-metre
24 reserve is -- I haven't measured it specifically, but
25 you can see daylight through the trees and I'm sure

1 it's less than 120 metres.

2 To ensure that mistakes are not allowed
3 to be made that can not be undone. We're very
4 concerned that mistakes have been made and we don't
5 want it to happen around our lake and we're looking for
6 that type of buffer.

7 We're also saying 500 metres to provide
8 the citizens of Ontario and visitors from outside
9 Canada with a feeling that the wilderness is still
10 there and that we're not completely clearcutting
11 northern Ontario.

12 And I guess it's -- back of the whole
13 thing is to give the residents of northern Ontario a
14 reason for living there. Cold weather and long winters
15 are made endurable with areas of natural wilderness to
16 visit, and we think it's important that we preserve
17 those areas of natural wilderness.

18 Cut-over areas are very quiet places when
19 you walk through them initially. You don't find the
20 animals there that are there in a natural setting.
21 Those are some of the reasons why we're asking for 500
22 metres.

23 Q. Thank you. And I understand that
24 you've prepared some documentary support for your
25 position with respect to the 500-metre reserve?

1 A. Yes.

2 MR. LINDGREN: I would like to file that
3 as the next exhibit, Madam Chair.

4 MADAM CHAIR: This will be Exhibit 1469.

5 MR. LINDGREN: (handed)

6 MADAM CHAIR: Could you describe this
7 document, Mr. Lindgren.

8 MR. LINDGREN: It's a 7-page document
9 prepared by Mr. Grant Tunnickliffe containing six
10 photographs of timber management activities in the area
11 of Marceau Lake.

12 ---EXHIBIT NO. 1469: Seven-page document and six
13 photographs re timber management
14 activities in area of Marceau Lake
prepared by Mr. Grant
Tunnickliffe.

15 MR. LINDGREN: Q. Mr. Tunnickliffe, could
16 you briefly take the Board through this document.

17 A. Okay. As I mentioned yesterday, the
18 Muskosenda, Marceau Lake, Triple Lake, Papakomeka Lake
19 is a canoe route that is recognized.

20 The first picture is taken on Triple Lake
21 and it's looking past the fringe of trees at the edge
22 of the lake and, as you can see, there's daylight
23 showing through those trees. In fact, as you get
24 closer to shore you can see the clearcut area and then
25 the new trees that have been replanted in the clearcut

1 behind that area. Now, in an area that is a canoe
2 tripping area, I don't personally think that's
3 acceptable to be able to see clearcuts from the water.

4 The second photograph is on the same lake
5 and this is showing again daylight through the trees.
6 When one goes on a canoe trip, you would like to think
7 that you are experiencing a wilderness trip and yet
8 it's not when you can see this happening.

9 The third photograph is an aerial view of
10 one of the Triple Lakes. There are three lakes that
11 make it up, and you can see the fringe of trees that's
12 been left around the lake. This is the kind of thing
13 we are concerned with Marceau Lake, and I know we have
14 been given reserves to help allay those fears, but we
15 are still concerned that we're going to be living in a
16 vast area of clearcut with a fringe of trees around the
17 waterways.

18 Another concern we have is mistakes that
19 are made, and that is photograph No. 4. This was a
20 road that was mistakenly cut. To try and describe this
21 road, it would be about 2 kilometres south of Marceau
22 Lake off the Telluride Road and it was a road that was
23 cut to open up an area for clearcutting. If you look
24 in the distance of this photograph there is a cold
25 water fishery called Bartlett Creek.

1 This mistaken road opened up that cold
2 water fishery. It was recognized as a mistake and it
3 was pointed out in one of the letters from the Ministry
4 of Natural Resources that the lumber company recognized
5 it as a mistake. They informed the company.

6 MR. LINDGREN: This is Appendix E, Madam
7 Chair. This is a letter dated November 2nd, 1987 to
8 Mr. Tunnickliffe from Mr. Chevalier.

9 Q. And I believe you're referring to
10 page 2 of that document?

11 A. Yes, I am. Appendix E, second page,
12 third paragraph:

13 "The MNR district biologist and the
14 forester for the unit have inspected the
15 site with company personnel. The company
16 had been assessed a penalty for the
17 infraction as per the Crown Timber Act
18 and rehabilitation of the area is
19 currently being discussed."

20 The photograph that I've shown you here
21 was taken about a month ago and, as you can see, it
22 hasn't been rehabilitated.

23 Now, possibly they're looking at natural
24 rehabilitation here and not replanting. It could be an
25 answer. The poplar logs in the foreground have been

1 left there for at least two years. There is fungus
2 growing on those logs and I would guess they're useless
3 now as far as being used for merchantable timber. It's
4 a shame that we have to have mistakes like this and
5 this doesn't reinforce our confidence in the forest
6 management techniques that we have to deal with.

7 MR. MARTEL: Which company was this?

8 THE WITNESS: Quebec and Ontario Paper
9 Company.

10 MR. MARTEL: The reason I put that to you
11 is that as we did our last tour of communities, we had
12 a whole series of representatives from very small
13 companies without skilled people, in the sense of
14 marking, and there was a tremendous outcry from all of
15 the independent jobbers basically who were going to
16 have to do their own marking in the future. MNR is
17 withdrawing.

18 Has that increased the possibility, in
19 your opinion, with less-experienced people required to
20 do that sort of work, of having mistakes made?

21 THE WITNESS: I would think so. My
22 understanding of this, the jobber who did the cutting
23 was following a mining claim -- a flagged mining claim
24 in this area and I guess they got confused and thought
25 that was where the road should go. So I would think

1 there would be problems because of that.

2 The photograph No. 5 represents a
3 crossing and this would be about, oh, I would think
4 less than a kilometre south of the previous photograph,
5 the false road, this is the road that should have been
6 cut in the first place, this is where it crosses
7 Bartlett Creek.

8 We're concerned that the way it has been
9 crossed, it's a sensitive area in the fact that it's a
10 cold water fishery, there are trout in that stream,
11 it's been left open for silting. We feel that there
12 should be more of a buffer between the creek and the
13 area. I'm sorry.

14 MADAM CHAIR: Sorry, Mr. Tunnickliffe.

15 MR. MARTEL: We were just discussing --
16 again, when I see that, I thought by and large that
17 there was a policy cold water with trout in, were, I
18 believe - I could be wrong - supposed to have a buffer
19 around them, and that doesn't look like much of a
20 buffer around that cold water stream that has trout in
21 it.

22 And again, maybe I'm wrong, but maybe we
23 could find out from MNR - maybe I'm wrong about my
24 supposition - but if I am correct, why this could occur
25 around a cold water -- maybe you can get the answer for

1 us as a little undertaking, Ms. Blastorah.

2 MS. BLASTORAH: Mr. Martel, obviously I'm
3 not in a position to put a witness forward to address
4 that, but perhaps I can just refer you to some of the
5 previous evidence, and that would be specifically Dr.
6 Allen's evidence with regard to the fish management
7 guidelines.

8 And you will see that those guidelines -
9 and I think this was the evidence, I don't think any
10 one would have problems with this - the guidelines talk
11 about cold water streams and that means both lakes and
12 creeks, and I believe we're talking about a creek here
13 and a creek crossing, not reserves around a lake or a
14 creek in terms of harvest.

15 MR. MARTEL: But weren't we supposed to
16 find a way -- the only time that we would come to the
17 shoreline, if I recall the information, if in fact
18 there was no other alternative but to get directly
19 through that specific area.

20 I think the example used was you had no
21 other place to go but between two bodies of water, and
22 so you went up the middle sort of approach, not -- I
23 might be wrong, but I remember Dr. Allen's evidence and
24 I remember the questioning that went on with respect to
25 that matter.

1 MS. BLASTORAH: Unfortunately I don't
2 have my fish management guidelines here--

3 MR. MARTEL: Neither do I.

4 MS. BLASTORAH: --in order to turn to it,
5 but perhaps I could just take time maybe - I don't know
6 whether I'll have time today - but perhaps tomorrow try
7 and get some references to the evidence, and I think
8 what we are talking about is an actual stream crossing
9 as opposed to the proximity of the road to the stream.
10 This is an actual crossing.

11 MR. MARTEL: Yes, I understand, but I
12 also thought that in the evidence that was given that
13 the only time we would do that, come close to a cold
14 water body, was in fact if there was no other
15 alternative available.

16 MS. BLASTORAH: Right, and I don't think
17 Mr. Tunnickliffe --

18 MR. MARTEL: And so that's what I'm
19 looking for from the Ministry to find out, why they
20 went there.

21 MS. BLASTORAH: In terms of this
22 particular crossing?

23 MR. MARTEL: Yes.

24 MS. BLASTORAH: I don't think Mr.
25 Tunnickliffe has said this morning - and correct me if

1 I'm wrong, Mr. Lindgren - that this was a problem in
2 terms of whether or not this was an approved crossing,
3 whether the appropriate area of concern planning was
4 done.

5 MR. MARTEL: No, I'm asking -- I'm not
6 worried about what Mr. Tunnickliffe was saying, I'm
7 asking, because I don't want to be confused about this.

8 MS. BLASTORAH: Certainly. We will try
9 and get some information that will address your
10 concerns, Mr. Martel.

11 MR. MARTEL: Thank you.

12 MR. LINDGREN: Q. Mr. Tunnickliffe, can
13 you indicate when this photograph was taken.

14 A. This was taken about a month ago.
15 Our concern here is that, if I could just explain the
16 Telluride -- this is very close to the Telluride Road.
17 Now, the Telluride Road runs north and south, parallel
18 in this area, at least parallel to the road is Bartlett
19 Creek. Telluride Road is on the east side of Bartlett
20 Creek. The area that they wanted to clearcut was on
21 the west side of Bartlett Creek, so they had to make a
22 road across to get to the clearcut.

23 Now, there was a false road made. There
24 was the crossing you can see here, and in this year's
25 annual work schedule there's another crossing to be

1 made and that would be about one kilometre north --
2 approximately one kilometre north of the crossing that
3 you're seeing here. So, in fact, there's three places
4 where that cold water creek has been opened up.

5 Q. And, Mr. Tunnicliffe, perhaps you
6 could go to Exhibit 1466 and indicate the general
7 location of Barlett Creek and the crossings that you're
8 talking about.

9 A. Again, here's Marceau Lake, Bartlett
10 Creek -- maybe I should explain it this way:
11 Muskosenda flows north into Marceau Lake. There's a
12 small creek called Bartlett Creek that comes and joins
13 with this Mountjoy Creek just before it enters Marceau
14 Lake. Now, that's probably confusing, okay. There's a
15 main flow of water coming into Marceau Lake and there's
16 a small stream that's Bartlett Creek.

17 What we're talking about here is a road
18 that comes off the main Papakomeka Road. It's called
19 the Telluride Road and it goes down south on the west
20 side of Muskosenda. And so what it does is run
21 parallel to this Bartlett Creek.

22 The area that they wanted to harvest and
23 have harvested was on the east side of Bartlett Creek,
24 and so it had to be crossed to get to it. So there was
25 one false road. There was the road you've seen here

1 and now --

2 MADAM CHAIR: Excuse me, Mr. Tunnicliffe,
3 what do you mean a false road?

4 THE WITNESS: A road that was a mistake,
5 the previous photograph. That opened it up and then a
6 second road crossed Bartlett Creek and now there's a
7 third road going across that's closer to Marceau Lake
8 to access the lumber on the southwest side of Marceau
9 Lake. Does that make sense?

10 MADAM CHAIR: Yes, thank you.

11 MR. LINDGREN: Q. And Mr. Tunnicliffe,
12 is your Association concerned with the clearcutting
13 that's visible in picture No. 5?

14 A. Picture No. 5 is an aerial
15 photograph --

16 Q. I'm referring to the crossing of
17 Bartlett Creek.

18 A. Oh, I'm sorry.

19 MS. BLASTORAH: I'm sorry, Mr. Lindgren,
20 I didn't hear what you said.

21 THE WITNESS: Yes, your question again.

22 MR. LINDGREN: Q. I'm wondering if the
23 cottagers are concerned about the clearcutting that's
24 visible in this picture?

25 A. That's what we live with in northern

1 Ontario. That's an economic fact of life that there
2 are clearcuts; what we want to ensure is that they
3 impinge in the least possible way on the environment.

4 So, no, I'm not upset about the
5 clearcutting that I'm seeing here. I have
6 environmental concerns but it's a fact of life and it's
7 something that I've grown used to, but it happens and
8 it's there, but I'm not aghast at what's happened but I
9 would like them to be careful when they do this.

10 Q. And do you have any concerns about
11 the visibility of the clearcut from the stream?

12 A. That's a concern. To me there should
13 be quite a fringe of trees left between the cold water
14 fishery and the clearcut to stop the silting of the
15 stream and for fishermen too; maybe they would like to
16 enjoy a simple trout stream to fish in without having
17 to see that they have a clearcut.

18 Q. Okay.

19 A. The final picture is an area view
20 that gives you an idea of what's happening around
21 Marceau Lake. In the mid-background is Marceau Lake,
22 the long thin lake that you can see there, that is
23 Marceau Lake.

24 The clearcut that you can see was done
25 this past February. It extended to within 500 metres

1 of Marceau Lake but there was a freeze -- the MNR had
2 frozen the land within a 500-metre radius of the lake,
3 so they didn't come closer than the 500 metres, but
4 we're concerned that we're going to have this clearcut
5 around the whole lake, and this is the beginning.

6 Q. And those are the reasons why the
7 Association has recommended or requested a 500-metre
8 reserve?

9 A. Exactly.

10 Q. And I would refer you to Appendix G
11 which is the MNR response to Appendix F and I wonder if
12 you could take the Board very quickly through this
13 document and indicate if there are any statements that
14 give you concern?

15 A. Okay. This goes back to the cottage
16 association meeting, the original cottagers association
17 meeting with the MNR and Quebec and Ontario Paper
18 Company. After that meeting I wrote a letter to John
19 Chevalier, the district manager in which I outlined
20 what I thought had happened in the meeting and that was
21 Appendix F.

22 In return, Mr. Chevalier wrote a letter
23 to me. I could point out in the third paragraph that
24 he indicates:

25 "I agree with your four points summarized

1 the adjustments to the plan, with one
2 exception, the planting of red pine
3 depends on stock availability. If no red
4 pine is available, jack pine will be
5 used."

6 So he agreed with the main four points
7 that I mentioned yesterday.

8 MADAM CHAIR: Excuse me, Mr. Tunnickliffe.
9 Was red pine the species that was cut?

10 THE WITNESS: No, no, jack pine that
11 would be cut. It's a jack pine stand. There are red
12 pine, but they're not common in that particular area,
13 but red pine are a beautiful tree and we had asked for
14 that, but he's come back and said that it would not
15 necessarily be red pine.

16 The last paragraph on that first page of
17 Appendix G:

18 "On page 2 of your brief, you also make
19 reference to our letter of February the
20 7th of 1984. I do not think that in that
21 letter we made any guarantees that no
22 lumber harvesting will go on in area 4 on
23 the map. I disagree that we have not
24 made efforts to buffer Marceau Lake from
25 logging."

1 Now, that was the original letter that
2 was signed by Art Papineau which we interpreted as
3 giving us some protection from logging in the areas
4 that we had identified.

5 Q. Now, on the top of page 2 there's an
6 indication that the 500-metre reserve was not
7 acceptable to the MNR because a 120-metre reserve would
8 be adequate. And what was your response to that?

9 A. Well, here again, we did not agree
10 with that. We didn't think 120 metres was enough to
11 buffer us from --

12 MS. BLASTORAH: Sorry. Mr. Lindgren, I'm
13 sorry, I didn't hear your reference. That's to the
14 paragraph at the top of the next page of the letter?

15 MR. LINDGREN: That's absolutely correct.

16 MS. BLASTORAH: Can I just ask that you
17 then make reference to the complete description there,
18 it's --

19 MR. LINDGREN: Madam Chair, this could be
20 easily and properly done during her cross-examination.
21 I'm just trying to paraphrase the paragraph in order to
22 expedite the process, and I'm asking Mr. Tunnickliffe
23 for his response to the MNR indication that a 120-metre
24 reserve would be adequate.

25 MS. BLASTORAH: Okay. Mrs. Koven, I

1 apologize to Mr. Lindgren for interrupting. I was only
2 trying to point out that that's not the way I read the
3 paragraph. If he wishes to leave this for cross, I
4 will be happy to do that.

5 MR. LINDGREN: Q. Mr. Tunnicliffe, could
6 we have your response please?

7 A. My response is, we did not agree that
8 120 metres was sufficient.

9 Q. And why is that?

10 A. I think for some of the reasons I've
11 pointed out already; the fact that we recognize the
12 importance of cutting logs in northern Ontario but we
13 also feel that in a true multi-user spirit that
14 cottagers should have some protection from that
15 logging.

16 Q. Now, in Appendix H you wrote to the
17 regional director with respect to this matter. Can you
18 please explain?

19 A. Since we had not received
20 satisfaction from the district level, our association
21 decided that we should present our case to the region
22 and that is Appendix H, the letter to Mr. Ray Reilly,
23 and it's dated January 20th, 1988.

24 Q. And his reply is found in Appendix M,
25 and could I ask you to turn to that document. And on

1 page 2 of Appendix M, top paragraph, there's a
2 reference to your comments about the Papakomeka Road
3 and the regional director indicates that:

4 "Cutting to roadside is
5 characteristically the norm with
6 retention of stands for other uses being
7 undertaken on an exception basis as the
8 need arises. This will continue to be
9 the management approach along the
10 Papakomeka."

11 And are you satisfied with that response?

12 A. No, no, we would prefer that cutting
13 did not take place right up to the road. I might
14 mention too, this Papakomeka Road is a fairly main
15 artery in Timmins. In fact, I understand 200 to 250
16 cars or vehicles a day are using that road, so it's a
17 fairly major road.

18 Now, I do not know the Caithness Road in
19 Hearst that he mentions here and its similarity, but I
20 feel that Papakomeka is a rather major artery,
21 especially this time of the year with hunters, during
22 the summer it's fishermen, campers, it's a very busy
23 road.

24 Q. And did the regional director accept
25 your request for a 500-metre reserve?

1 A. No.

2 Q. And then I understand that you wrote
3 to the Minister of Natural Resources?

4 A. Yes. When we didn't receive
5 satisfaction at the district level, we then wrote to
6 the Minister of Natural Resources.

7 Q. And this is Appendix J. And on the
8 first page of Appendix J --

9 A. Yes.

10 Q. Do you have that document, Mr.
11 Tunnickliffe?

12 A. I'm sorry.

13 Q. Do you have the Appendix J before
14 you?

15 A. Yes, I do.

16 Q. And on the first page, second
17 paragraph, you make a reference to the district land
18 use guidelines, and you indicated in the last line that
19 this - and this the last line of the second paragraph:

20 "This land use guideline was prepared
21 with considerable input from local
22 citizens and it would now appear to us
23 that the intent is not being followed."

24 And can you explain what you mean by
25 that?

1 A. Yes. This is kind of interesting,
2 this district land use guideline. There were two
3 district land use guidelines. The first one was
4 developed with considerable input from trappers, from
5 resort owners, from the lumber people, many different
6 people were involved in this, and that was developed
7 and produced in 1983.

8 There was a second -- there was a
9 revision made to that land use guideline, but maybe I
10 could leave that for a minute. Could I -- the land use
11 guideline that I'm talking about is Appendix K.

12 Q. And this is the original 1983
13 guideline?

14 A. That's right. It's dated 1983 and
15 the part that is reproduced describes that:

16 "Peter Long/Muskosenda Complex. Marceau
17 Lake is within this complex. The land
18 use intent is stated as being: The
19 primary use in this area will be a
20 combination of Crown land recreation,
21 cottaging and commercial tourism.
22 Resource management plans will contain
23 guidelines for the protection of
24 significant recreation and tourism
25 values, historical and archaeological

1 sites, and fish and wildlife habitats."

2 Q. And you indicated that the DLUG was
3 subsequently revised?

4 A. And that revised document is Appendix
5 AA.

6 MADAM CHAIR: A?

7 THE WITNESS: AA. Double A, right at the
8 end.

9 MADAM CHAIR: Oh, at the end.

10 THE WITNESS: One of the last ones.

11 MR. LINDGREN: Q. And can you describe
12 for the Board how the land use guidelines were revised
13 with respect to the Marceau Lake area?

14 A. I'm reading from Appendix AA:

15 "Land use intent: The primary use in this
16 area will be a combination of Crown land
17 recreation, cottaging and commercial
18 tourism in shoreline areas while resource
19 extraction will have priority in
20 non-shoreline areas. Resource management
21 plans will contain guidelines for the
22 protection of significant recreation,
23 tourism values, historical and
24 archaeological sites, and fish and
25 wildlife habitats."

1 This document I believe was produced in
2 1985.

3 Q. In your view, is this a significant
4 change to a land use intent for the Marceau Lake
5 complex?

6 A. I believe so. In the first district
7 land use guideline that was produced with all the
8 public input, it seemed to indicate to us that the
9 prime use of this area will be recreation, cottaging
10 and commercial tourism; in the second one it seems to
11 be modified to relate to non-shoreline areas,
12 specifically indicating that they will be set aside for
13 logging.

14 MR. LINDGREN: Now, Madam Chair --

15 MR. MARTEL: Who was involved in
16 redrafting the district land use guidelines?

17 MR. LINDGREN: That is my very next
18 question, Mr. Martel.

19 MR. MARTEL: All right.

20 MR. LINDGREN: Q. I would refer the
21 Board and the parties to the package of interrogatories
22 I filed and that's Exhibit 1465, and the interrogatory
23 in question is Question No. 4 from the OFAH, it's the
24 very first interrogatory in the package.

25 And attached to the answer are excerpts

1 from the revision. And three pages in, Mr.
2 Tunnickliffe, it's page 6, there's a small six at the
3 top, and under paragraph 2, sub (c) there's an
4 indication:

5 "Is public notice required?"

6 And the answer is:

7 "No."

8 Now, you've mentioned a minute ago that
9 in your view this represented a significant change. In
10 your opinion, should the cottagers have been notified
11 or consulted about this revision?

12 A. We should have been, and
13 unfortunately, the revised district land use guideline
14 was not provided to us until 1989.

15 Q. Had you asked for it?

16 A. I had asked for it. I had asked for
17 a copy of the land use guideline. Well, actually it
18 came up in a meeting with the MNR when we were talking
19 about district land use guidelines. They indicated
20 that the guidelines had been changed and they showed us
21 the revised copy and I asked for a copy of the new
22 guidelines and I was subsequently given one with the
23 pages stapled in.

24 But I was quite concerned when I saw that
25 there was a definite difference in the emphasis of land

1 use with regard to the cottaging and recreation and
2 tourism also.

3 Q. May I ask you to flip a few more
4 pages into this excerpt, and I'm looking at the page
5 entitled Appendix E, list of groups and/or individuals
6 consulted.

7 A. In the interrogatory?

8 Q. Yes.

9 A. Okay. Which page again?

10 Q. It's about five pages in. There's a
11 No. 36 on the top.

12 A. Yes.

13 Q. And on the next page after that
14 there's an indication that NOTOA and the Ministry of
15 Tourism and Recreation were contacted. Can you confirm
16 for me that the Marceau Lake Cottagers Association was
17 not contacted?

18 A. We were never contacted, no.

19 Q. Thank you.

20 MADAM CHAIR: Excuse me, Mr. Tunnickliffe.
21 When was your organization incorporated?

22 THE WITNESS: In 1987.

23 MADAM CHAIR: And this took place in
24 1985?

25 THE WITNESS: Right.

1 MADAM CHAIR: But was your interest in
2 this issue known by the Ministry in 1985.

3 THE WITNESS: Possibly not. We were not
4 - organized in one association at that time.

5 MR. LINDGREN: Q. And can you --

6 A. But the cottagers association
7 certainly had -- the cottages had existed since 1975.

8 Q. And can you advise the Board how this
9 change in land use intent may impact upon the
10 cottagers?

11 A. Well, it was certainly mentioned to
12 us -- we had used this as an argument in favour of the
13 500-metre reserve around our lake, that the district
14 land use guidelines, in our estimation, was primarily
15 for Crown land recreation, cottaging and commercial
16 tourism, and when they showed us the revised district
17 land use guideline, of course, our argument was much
18 weakened because of that.

19 MADAM CHAIR: Did you ask the Ministry of
20 Natural Resources to consider further revisions to the
21 district land use guidelines?

22 THE WITNESS: No, no. I don't think we
23 considered doing that.

24 MR. MARTEL: Did you ever ask them why
25 they didn't involve the other user-groups that they had

1 apparently talked to, according to your information,
2 during the original draft? You said that they talked
3 to resort owners, trappers and so on, when you wrote
4 the first set -- or when the first set of guidelines
5 was written, and yet we only see here Roger Little and
6 Ministry of Tourism and Rec.

7 Did you ever ask them why they didn't go
8 back to the user groups that they had originally
9 consulted with in the first draft of the district land
10 use guidelines?

11 THE WITNESS: No, we didn't.

12 MR. LINDGREN: Q. Can I refer you back
13 to Appendix J which is your original letter to the
14 Minister wherein you describe the district land use
15 guidelines as they then existed.

16 Now, on page 2 of Appendix J, towards the
17 end of the second full paragraph, you make a reference
18 to the Timber Management Guidelines for the Protection
19 of Tourism Values, and can you indicate how that is
20 relevant to the cottagers' position with respect to the
21 ski trail?

22 A. The guideline for the protection of
23 tourism values is not necessarily pointed correctly at
24 cottagers, but I think it represents the same values.
25 Under this guideline, as I understand it, if there's a

1 ski trail present the Ministry of Natural Resources is
2 asked to use special precautions when determining
3 forest management agreements and annual work schedules
4 to try and take those into account.

5 Q. Can I refer you to Appendix L, one of
6 the excerpts from the guide where the excerpts from the
7 guidelines are reproduced.

8 A. In Appendix L under Trails -- 4.6.3
9 Trails, second paragraph:

10 "Where major hiking, cross-country skiing
11 or jogging trails constructed by tourist
12 operators for guest use already exist and
13 would involve considerable replacement
14 efforts, attempt to avoid large clearcut
15 operations in the vicinity of the
16 system."

17 Q. And how did the Ministry's proposals
18 correspond with that direction, in your view?

19 A. In subsequent letters we were told
20 that they would provide a 10-metre buffer on either
21 side of our ski trail, or relocate the ski trail.

22 Q. And is that found in Appendix O?

23 A. Yes.

24 Q. And can you describe what the
25 cottagers' position is with respect to both of those

1 options that are spelled out?

2 A. I'm smiling here, when I think about
3 a 10-metre buffer on either side of a ski trail
4 wandering through a vast clearcut. I don't think I
5 would want to ski that trail.

6 The relocation of the trail, we're very
7 much attached to the ski trail we have now, the offer
8 of relocation would be into an area that is not as
9 pretty as the area we have now and would be further
10 removed from our cottages and, as a consequence, we
11 couldn't accept either of those two offers.

12 Q. In the third full paragraph in
13 Appendix O there's an indication that:

14 "The MNR's preference is not Option
15 A since the modest protection mentioned
16 will not prevent viewing the clearcut
17 next to the ski trail. In addition, the
18 company is likely not to be happy with
19 losing additional wood fiber in the
20 area."

21 And, in your view, is that a satisfactory
22 statement?

23 A. Well, certainly the company wouldn't
24 be happy and the company hasn't been happy with us all
25 along in our requests for additional reserve around the

1 lake.

2 Q. Is that adequate rationale for not
3 protecting the ski trail?

4 A. Certainly not. In our estimation, I
5 think Ministry of Natural Resources should be
6 representing us too.

7 Q. Did the cottagers accept either of
8 those options?

9 A. No, each of those options was turned
10 down.

11 Q. And was that conveyed to the MNR?

12 A. Yes. That is Appendix -- I believe
13 that's Appendix P. Yes, Appendix P, this was dated
14 March, 1988:

15 "Dear Mr. Chevalier: I am writing to
16 inform you that the Marceau Lake
17 Cottagers Association had a general
18 meeting on March 3rd, 1988 and decided
19 the cross-country ski trail we had
20 discussed at our last meeting with you
21 should stay where it is. We felt the
22 trail is well established and is located
23 in an area that has been used by
24 cottagers for several years. They also
25 felt that a 10-metre allowance is not

1 enough and could not understand why such
2 a trail is not protected as described in
3 the MNR guidebook entitled: Timber
4 Management Guideline for the Protection
5 of Tourism Values in section 4.6.3."

6 Q. And the Ministry's reply to that
7 letter is found in Appendix Q, and in the final
8 paragraph of that letter there's an indication that:

9 "As it stands now, there's no protection
10 or consideration in the timber management
11 plan for your ski trail. We have
12 suggested alternatives and I am not
13 prepared to broaden those alternatives."

14 Is the association satisfied with that
15 statement, and what other alternatives could have been
16 or should have been considered by the Ministry?

17 A. That was their position in March
18 18th, 1988. Subsequent to that there have been other
19 changes made, changes that would protect at least part
20 of the trail, not all of it, but part of it -- well, a
21 good part of it is missing because it's part of the
22 clearcut now.

23 Q. In the following appendix, Appendix R
24 you wrote to Mr. James Bradley, the Minister of the
25 Environment. Can you indicate briefly why that was

1 necessary in the cottagers' view?

2 A. We had not received satisfaction at
3 the district level, at the regional level or at the
4 provincial level of Ministry of Natural Resources. I
5 understood that there was a bump-up procedure that
6 could be requested, and that is the route that I
7 followed.

8 I asked that the Ministry of the
9 Environment become involved in our case and in that
10 letter I outlined again what we were looking for and I
11 had mentioned this in various letters as to what we
12 were looking for.

13 And if I could read that to you, what --
14 this is Appendix R, second page, this is not the first
15 time, there's other correspondence to the MNR that has
16 stated the same thing:

17 "1. We are looking for a buffer or
18 bubble of natural forest between Marceau
19 Lake and the lumber operations of the
20 Quebec and Ontario Paper Company that
21 would allow us to maintain our walking
22 and ski trails. We are recommending a
23 500-metre radius.

24 2. We would like a policy stated in the
25 FMA 20-year plan that would ensure that

1 we do not have to fight this battle every
2 five years to ensure the forest is not
3 cut in our immediate environs.

4 3. The recognition that cottagers have a
5 right to enjoy the natural aesthetic
6 quality of old growth forest as well as
7 the animal and plant life we have grown
8 to enjoy...", and.

9 "4. A recognition of the role of
10 cottagers in a true multi-user forest
11 management philosophy and a feeling that
12 we can work with the Ministry of Natural
13 Resources and not be placed in an
14 adversarial role."

15 Q. And that sentence continues onto the
16 next page?

17 A. I'm sorry.

18 "...in an adversarial role fighting both
19 the lumber companies and the Ministry for
20 preservation of recreational land."

21 Q. And did you ever receive a reply from
22 the Minister of the Environment to that letter?

23 A. I received a reply.

24 Q. And this is Appendix V

25 A. Appendix V, yes, and I believe this

1 is the only correspondence I have had from the Minister
2 of the Environment.

3 Q. So since your letter of March 21st,
4 1988, this is the only correspondence that you have
5 received from the Minister of the Environment?

6 A. Yes.

7 MADAM CHAIR: Excuse me. This is
8 Appendix B?

9 MR. LINDGREN: V.

10 MADAM CHAIR: V.

11 MR. HUFF: V as in Vickie.

12 MS. BLASTORAH: V for Victor.

13 MR. LINDGREN: Q. And I will repeat my
14 question. Since your letter of March 21st, 1988 this
15 is the only correspondence that you have received from
16 the Minister of the Environment?

17 A. I believe that's correct.

18 MADAM CHAIR: Excuse me. Ms. Seaborn,
19 have you gone through Mr. Tunnickliffe's written
20 material and did you confirm that this is the only
21 correspondence that he's received from the Minister of
22 Environment?

23 MS. SEABORN: I believe that's correct.

24 MADAM CHAIR: And this is what, two and a
25 half years ago?

1 MS. SEABORN: That's correct, Madam
2 Chair.

3 MADAM CHAIR: And what amount of time
4 passed between your request and their answer, three
5 months? So how do you feel about the bump-up process,
6 Mr. Tunnicliffe?

7 THE WITNESS: I am not at all impressed
8 with the bump-up process.

9 MR. MARTEL: I can't understand that.

10 MR. TUNNICLIFFE: No. I had a feeling
11 there were other things going on in the background that
12 I wasn't privy to, but in any case, this was the letter
13 that I received and to thank me for the request and
14 indicated that they would be looking into and I did
15 make phone calls to try and find out what the status of
16 our request was, and I did talk to a couple of people
17 at the Ministry of the Environment, but this is the
18 only correspondence that I've had.

19 MADAM CHAIR: And have you talked to them
20 more recently.

21 MR. TUNNICLIFFE: No, not recently.

22 MR. LINDGREN: Q. Can I refer you to
23 Appendix X, and the first document in Appendix X is a
24 letter to Mr. Bradley. Can you explain what this
25 letter indicates?

1 A. This was written this year in January
2 and I have indicated:

3 "It's now almost 19 months since I heard
4 from your office regarding our request
5 for a designated logging reserve and
6 other specified items. This request was
7 made after fruitless discussions with the
8 Ministry of Natural Resources and the
9 Quebec and Ontario Paper Company. Since
10 that time we have agreed to a request
11 from the paper company for road
12 construction through part of the
13 designated area, but not for the
14 harvesting of trees."

15 To jump to the second paragraph:

16 "We are currently planning activities for
17 the coming season and a walking trail
18 around the lake is being considered.

19 Our ski trail is now in use and we would
20 like to make improvements but we cannot
21 make decisions until we know the status
22 of our designation request. At the same
23 time, I am sure the the Quebec and
24 Ontario Paper Company are planning their
25 annual work schedules for their timber

1 management operations."

2 Q. And did you receive a reply to that
3 letter?

4 A. I don't believe so.

5 Q. Now, the next page in Appendix X,
6 actually the next two pages are records of telephone
7 calls apparently made by you, and can you review those
8 documents and can you indicate if they're fairly
9 accurate summaries of the telephone transaction?

10 A. Yes. The first one is with -- has
11 the name Brian Ward written on the top and it was
12 November 21st, 1988. I phoned Mr. Ward asking for an
13 indication of the status of our request. He phoned me
14 and indicated that it was still under investigation,
15 but that there were so many things that the Minister of
16 the Environment was involved with at the present time
17 that it was a low priority item.

18 And there's another -- again, this is an
19 internal document I believe signed by Darlene Dahl,
20 again asking -- I had phoned her and asked for
21 information as to the status of our request and this is
22 March, 1989.

23 Q. Thank you. Now, in paragraph 33 of
24 your witness statement there's an indication that:

25 "In March, 1990 the Quebec and Ontario

1 Paper Company carried out a clearcut
2 within stand 56 and obliterated
3 approximately 25 per cent of the ski
4 trail."

5 And I understand that you have some
6 photographs to show to the Board, but perhaps before
7 you get to that, can you briefly describe what you saw
8 at that time?

9 A. This past year during the March break
10 my daughter and I were at the cottage and we went out
11 on the ski trail and as we were skiing through the
12 trees, suddenly we came across what appeared to be
13 confusing at first, but then it was quite easy to see
14 it was a clearcut and our ski trail ended and the
15 clearcut began.

16 MADAM CHAIR: Excuse me. Looking back at
17 Appendix X, which was your letter to Mr. Bradley in
18 January of 1990, and at that point you were saying you
19 would wait to know what was going to happen with your
20 bump-up request. And in January of 1990, as far as you
21 knew, there were no plans to clearcut that area?

22 MR. TUNNICLIFFE: Yes. We had been told
23 in the previous year, like --

24 MADAM CHAIR: In the annual work
25 schedule?

1 THE WITNESS: Every spring we go to the
2 annual work schedule announcement and we knew there was
3 to be clearcutting in that area, but the unfortunate
4 part is I didn't realize that our ski trail went into
5 that, went past the 500 metres and, as a result, the
6 clearcutting did not come within 500 metres of our
7 lake, but unfortunately our ski trail went past the 500
8 metres and was included in the clearcut.

9 MADAM CHAIR: I see.

10 MR. LINDGREN: Q. And perhaps, Mr.
11 Tunnickliffe, this would be an appropriate time to talk
12 about your photographs and show them to the Board.

13 A. Okay.

14 Q. And for each photograph, Mr.
15 Tunnickliffe, perhaps you can briefly describe what is
16 being depicted and whether or not you have any concerns
17 about what is in the photograph.

18 A. Okay. These photographs were taken
19 in January of 1990. This was after we had been over
20 the ski trail and this is what it looked like.

21 This was an area that was subsequently
22 cut. This was actually an area between two low-lying
23 areas where it's swampy in the summertime, but this was
24 like an isthmus wandering between these two places, and
25 this was the trail as it went up a small hill. Again,

1 this part has disappeared now, and I took these
2 pictures not because I was anticipating clearcut coming
3 up, but just the fact that I like to carry my camera
4 when I go out in case we see something.

5 This is an area looking across one of
6 those low-lying areas where there are pitcher plants
7 that are seen in the summertime in that low-lying area.

8 And again, this is a photograph taken
9 from part that has been clearcut.

10 This was the day in March, this is my
11 daughter. As we were skiing along the trail, this is
12 the devastation that we came across. Obviously hard to
13 ski over that.

14 This was the same photograph but from the
15 opposite end of the clearcut.

16 This is a little bit out of order, but
17 this again was in March and this is when I first had an
18 indication there was something funny about the ski
19 trail. As we went over it we could see all this white
20 in the centre part of the photograph, and that was an
21 indication that the lumber company had been there.

22 Q. And that was Photograph No. 7?

23 A. Right. This is part of the
24 clearcut -- that used to be our ski trail. One of the
25 photographs I took earlier was the trails that went

1 along that particular part.

2 MADAM CHAIR: Is that water in the
3 foreground?

4 THE WITNESS: No, that's a low-lying
5 boggy area. It's a place that looks like there's a lot
6 of grass in the summertime, but if you walk into it you
7 get your feet wet kind of thing. It's a low-lying
8 area.

9 Again, these are other photographs
10 showing the clearcut. This was taken a little bit
11 later on. This was after some of the snow had gone.
12 We walked over the ski trail and we walked through the
13 clearcut. You can see the brush that has been left
14 behind. The road that is there was not there
15 originally. It was put in to accommodate the
16 extraction of the lumber.

17 MR. LINDGREN: Q. And that is photograph
18 No. 10?

19 A. That's right.

20 Q. And this is No. 11?

21 A. Thank you. Again, this used to be
22 part of the ski trail.

23 Q. This is No. 12?

24 A. No. 12, mm-hmm. Now, again this is
25 taken a little bit later on. You can see some snow

1 still under the branches.

2 Q. No. 13.

3 A. This type of clearcut, the trees are
4 pushed up into windrows to make it easier to plant.

5 Q. No. 14.

6 A. Here's a good example of where the --
7 I have trouble understanding this, that the topsoil is
8 so thin, it's only a couple of inches in this area, and
9 it's pushed up into windrows and then the replanting
10 takes place in the area that is left, the sandy area
11 that's left.

12 Q. No. 15.

13 A. Again, this is further into the
14 clearcut.

15 Q. No. 16.

16 A. These are the tops of the trees that
17 have been left behind after the main part has been
18 removed.

19 Q. No. 17.

20 A. Again, you can see some of the snow
21 underneath the branches, but this is an example of a
22 brush that is left behind after a clearcut. The birch
23 trees are left because they don't have an economic
24 value I understand.

25 Q. No. 18.

1 A. Again, showing the windrows that are
2 produced and the planting in between the windrows.

3 Q. No. 19.

4 A. This is part of the road that was
5 used to extract the logs.

6 MR. MARTEL: Can you focus that.

7 MADAM CHAIR: Excuse me, Mr. Tunnickliffe.

8 THE WITNESS: Yes.

9 MADAM CHAIR: You mentioned planting that
10 was done. This is obviously not in the area of the
11 cutting by the ski trail, this is --

12 THE WITNESS: No, this is further into
13 the clearcut.

14 MADAM CHAIR: Yes.

15 THE WITNESS: This is just an example of
16 the type of thing that happens after a clearcut.

17 MR. LINDGREN: Q. No. 20.

18 A. And that is myself, my wife and my
19 daughter.

20 Q. Would you describe that as a large
21 clearcut in your view?

22 A. It's not as large as some of the
23 clearcuts that we have in our area. I'm not sure how
24 many hectares would be involved with it. It's a
25 substantial cut, but not an overly large one. We have

1 some that are just huge, that go on forever.

2 Q. 21.

3 A. These were some of the logs left
4 behind. We pointed these out to Mr. Fleet at one of
5 our meetings, that they seemed to be fairly large to be
6 left behind in the bush, that there must be some value
7 in those logs.

8 Q. No. 22.

9 A. This just shows the sand that has
10 been exposed by the cutting operation. Sand that I'm
11 not sure how long it takes that to solidify again or to
12 have topsoil on top of it.

13 MR. MARTEL: Is that a landing or a road
14 or what?

15 THE WITNESS: That was a road. I would
16 imagine the trucks would have backed up to pick up the
17 logs. You can see the tops of the logs that are left
18 there.

19 MR. LINDGREN: Q. No. 22.

20 A. Again, this was the sort of thing
21 that we pointed out to Mr. Fleet, that some of these
22 logs -- apparently the rule is anything over four
23 inches should be removed from the bush, and a lot of
24 these had a width of more than four inches.

25 Q. 22B. This is 22 C. And what is

1 shown here, Mr. Tunnicliffe?

2 A. Again, showing some fairly large logs
3 that have been left behind.

4 Q. No. 23.

5 A. Another case of what is left behind
6 after a clearcut.

7 Q. No. 24.

8 A. Similar photograph and, again,
9 showing logs that are over the 4 inch mark.

10 Q. And this is No. 25?

11 A. Here's one of the cottagers showing
12 the four inch mark on a ruler.

13 MR. CASSIDY: Which one is that one?

14 MR. LINDGREN: No. 25.

15 Q. No. 26.

16 A. This is another photograph of that --
17 of what I call the false road, the mistake that was
18 made. Now, this was taken off what is called the
19 Telluride Road. This is another photograph of what I
20 showed you before. The area has not been replanted,
21 and the pile of poplar logs is part way down the road
22 there.

23 Q. No. 27.

24 A. This concerned us. This is a
25 creosote box. When the Telluride Road was constructed,

1 and I believe that was in 1987, to build a bridge they
2 had to creosote the logs and what they do is build a
3 trough like this to dip the logs in, the trough is full
4 -- of creosote, they then transport the logs down to the
5 bridge and construct the bridge.

6 The problem here was the creosote was
7 leaking from the box. In fact, that box is still there
8 today. It's never been removed, and we're concerned
9 about creosote getting into the environment and the
10 amount that is being used here to creosote the logs.

11 MR. LINDGREN: Thank you, Mr.
12 Tunnickliffe.

13 MADAM CHAIR: Were there 27 slides
14 altogether, Mr. Lindgren?

15 MR. LINDGREN: There were the 27 plus 3
16 indicated as 22A, B and C.

17 Q. Mr. Tunnickliffe, could I ask you to
18 refer to Appendix Y?

19 MADAM CHAIR: Are we getting close to our
20 morning break, Mr. Lindgren?

21 MR. LINDGREN: This is fine, Madam Chair.

22 MADAM CHAIR: All right, thank you. We
23 are going to take 20 minutes.

24 MR. LINDGREN: Thank you.

25 ---Recess taken at 10:20 a.m.

1 ---On resuming at 10:45 a.m.

2 MADAM CHAIR: Please be seated.

3 Mr. Lindgren?

4 MR. LINDGREN: Thank you, Madam Chair.

5 Q. Mr. Tunnicliffe, after we had
6 reviewed your photographs I had referred you to
7 Appendix Y. Can you briefly explain to the Board what
8 Appendix Y is and why you wrote it?

9 A. Yes. This was written March 12th of
10 this year and in this letter, if I could read:

11 "In my letter to you dated January 29th
12 of this year I noted that we would like
13 to hear from your office so that we could
14 make decisions about improvements to our
15 cross-country ski trail at Marceau Lake.
16 This request is no longer of any
17 consequence as much of our ski trail is
18 now part of a vast clearcut. The Quebec
19 and Ontario Paper Company have extended
20 their logging operations and the place
21 where we used to ski is now a wasteland
22 of bulldozed terrain."

23 And carrying on from that. If I could
24 move down to the next paragraph:

25 "I've indicated we would now like to

1 rebuild the trail keeping it within 500
2 metres of the lake but we need some
3 guarantee that the same thing will not
4 happen all over again. Once more, I
5 would like to ask your Ministry to make a
6 decision about our designation request.
7 If we could have some certainty that the
8 Quebec and Ontario Paper Company will not
9 be allowed to cut within 500 metres of
10 the lake, it would help relieve current
11 tensions."

12 Q. And did you receive a reply from the
13 Minister of the Environment to this letter?

14 A. I don't believe so.

15 MADAM CHAIR: Excuse me, Mr. Tunnickliffe?

16 THE WITNESS: Yes.

17 MADAM CHAIR: What's your understanding
18 of the reason why you haven't heard back on your
19 bump-up request from the Ministry of the Environment?

20 THE WITNESS: I really don't know what's
21 happening. It seems strange to me that two-and-a-half
22 years go by without me hearing formally that either
23 it's been approved or not approved.

24 MADAM CHAIR: Do you think the reason is
25 because this hearing is taking place?

1 THE WITNESS: That's a possibility, I'm
2 sure.

3 MADAM CHAIR: You've never been told
4 that?

5 THE WITNESS: I've never been told that.
6 I've always thought there was something political in
7 what was happening and it was something to do with
8 higher levels of the Ministries of the Environment and
9 Natural Resources, but I don't -- I'm not privy to
10 information that goes on.

11 MR. CASSIDY: I would like to state
12 something for the record, this is without meaning to
13 interrupt anyone, but the company involved in this case
14 shares Mr. Tunnickliffe's bewilderment, concern and lack
15 of knowledge about this matter.

16 You may recall I cross-examined some
17 witnesses about this matter some time ago from the
18 Ministry of Natural Resources who I think in fact share
19 that view as well.

20 I don't want there to be any
21 misunderstanding about the company's position on this.
22 We have the same view of the matter as Mr. Tunnickliffe
23 does, a matter of bewilderment, in many cases
24 frustration.

25 MADAM CHAIR: Thank you, Mr. Cassidy.

1 Ms. Seaborn, obviously this issue of
2 bump-up has been prominent at the hearing but with
3 respect to the witnesses brought by Forests for
4 Tomorrow in Panel 2 this is a recurring theme.

5 MS. SEABORN: Yes, Madam Chair.

6 MADAM CHAIR: The Board would like you to
7 speak with your clients and we would like some
8 statement as to why we have found, as a result of this
9 case, that there have been a number of bump-up requests
10 with respect to timber management activities and we
11 would like to know what the Ministry of the
12 Environment's policy is on this, why there has been no
13 response to these various requests, and if there is
14 some tie-in between the reason the Ministry of the
15 Environment has not done something about this and the
16 fact that the Environmental Assessment Hearing on
17 Timber Management is taking place, or are there any
18 other reasons?

19 It seems to us, if people out there are
20 not getting an answer about bump-up because there is
21 some feeling that this hearing is somehow involved in
22 decisions about that, then I think it's only fair that
23 everyone know, and what is the point of people
24 continuing to ask for bump-up requests during the
25 course of the hearing.

1 I think there should be some -- the Board
2 certainly wants some information about that.

3 MS. SEABORN: Madam Chair, I can respond
4 in a preliminary way right now. At the scoping session
5 last week for Panel 2 you will recall that I stood up
6 at that time and said to the Board that no one is happy
7 with the length of time it has taken to deal with these
8 requests and the fact that to date these people had not
9 received a response.

10 Obviously the Industry isn't happy about
11 it, Forests for Tomorrow isn't happy about it, MNR
12 isn't happy about it, neither is MOE.

13 The decision on bump-up, as the Board is
14 aware, is a discretionary decision that is left with
15 the Minister of the Environment of the day. As I told
16 the Board last week we have a new Minister of
17 Environment. We have flagged this issue as a priority,
18 the new Minister is dealing with it and I hope shortly
19 I will be able to provide the Board with a more
20 comprehensive response as to how all these outstanding
21 designations and bump-up requests are being dealt with.
22 It is a priority. I share your concerns as do the
23 people at the Ministry of the Environment.

24 As I advised the Board last week in
25 relation to this particular request, the former

1 Minister made a referral to EAAC. That letter is in a
2 response to the interrogatories. It was also filed in
3 the material I believe that Mr. Lindgren filed. That
4 is a decision again that is up to the Minister as to
5 what will happen with that referral.

6 It's my information to date that the
7 referral to EAAC with respect to Marceau Lake will go
8 ahead and I have no information at this point to tell
9 me that it won't go ahead, nothing contrary to Mr.
10 Bradley's letter.

11 As I said, I hope that if we are lucky
12 before this evidence is over I can provide the Board
13 with copies of correspondence that will clarify the
14 issue, but certainly I'm not sure that I can do any
15 more in terms of giving the Board information as to
16 what has happened over the past two years because it is
17 a decision that's in the discretion of the Minister.

18 MADAM CHAIR: Well, certainly with
19 respect to the kind of evidence that the Board looks at
20 in assessing the application of the proponent, bump-up
21 is one aspect of that.

22 MS. SEABORN: Of course.

23 MADAM CHAIR: And we haven't seen bump-up
24 in action yet, so it would be awfully difficult to make
25 any kind of a decision about that, and you might keep

1 that in mind when you think about presenting evidence
2 with us.

3 MS. SEABORN: I'm certainly aware of that
4 and that is something that we have noted from the
5 outset of the hearing; it is something that has to be
6 addressed in the context of a Class Environmental
7 Assessment, if it is to be workable.

8 MR. MARTEL: I mean, I think you might
9 enquire of your client. I mean, why have a policy on
10 the books, I mean, which puts everybody in a position
11 that no one gets an answer, activities occur when in
12 fact there's a bump-up requesting a delay until a
13 decision is reached, why in God's name have a policy
14 which is simply ignored and allow activities to occur?
15 It just puts everybody in a state of war.

16 I mean, two and a half years without
17 response is quite unacceptable, in my opinion and I
18 think there's got to be a way of resolving this, or get
19 rid of the policy and stop pretending there's a policy
20 in place that no one pays attention to or uses anyway
21 or can use. It really is an awful position for
22 everyone to be in.

23 MS. SEABORN: I understand that, Mr.
24 Martel, and I don't -- I'm not attempting here to rise
25 to defend--

1 MR. MARTEL: I don't blame you.

2 MS. SEABORN: --the length of time that
3 it's taken. It's not a defensible position to say that
4 it's acceptable for a member of the public to have to
5 wait that long for a decision.

6 All I can say is that in the future my
7 client's hope is that these will be dealt with in an
8 expeditious manner, and I'm hopeful that I can bring
9 forward some correspondence to show that that is indeed
10 a genuine intent of my client over the next several
11 weeks.

12 And I don't think I can add anything more
13 today to that because I don't have final instructions.

14 MADAM CHAIR: Well, certainly we would
15 just add that the Board has to draw the unavoidable
16 conclusion that, for some reason, the fact that the
17 Environmental Assessment Hearing on Timber Management
18 is taking place seems to have some tie-in with what's
19 going on with bump-up requests and action or inaction,
20 and we would like some clarification of where that all
21 stands.

22 MS. SEABORN: Okay.

23 MR. LINDGREN: Madam Chair, if I can make
24 a brief suggestion. It might be helpful to the Board
25 and to the parties, for the Board to require perhaps

1 the Ministry of Natural Resources to provide any
2 information it might have on the tie-in between this
3 hearing and the delay and the lack of the bump-up
4 requests, other lack of bump-up requests being granted.
5 In particular it might be helpful to know if the
6 Ministry of Natural Resources itself has a policy as to
7 whether or not these matters should be bumped up during
8 the term of this hearing.

9 MS. BLASTORAH: Mrs. Koven, if I can
10 respond to that. I am not sure what Mr. Lindgren is
11 getting at, but it's certainly not within the power of
12 the Ministry of Natural Resources to do anything about
13 how MOE treats designation requests. These are not
14 bump-up requests. They are designation requests under
15 the Environmental Assessment Act, Mr. Martel, it's not
16 a policy, it's the Environmental Assessment Act.

17 MR. MARTEL: Yes, I understand that.

18 MS. BLASTORAH: You understand that.

19 MR. MARTEL: I'm simply saying the policy
20 seems to be that the Ministry ignores -- it's as though
21 you don't have legislation in place and everybody is
22 left out there holding the bag.

23 I mean, the Ministry of Natural Resources
24 is caught because it's trying to proceed with maybe
25 some sort of plan. The companies in question are held

1 up because they don't know what they should be doing.

2 How long can you go on? Two and a half years without

3 some activity, the people -- the public out there, they

4 believe they have a legitimate concern and the answer

5 seems to be: Well, we won't answer anything, and it's

6 just totally unacceptable.

7 MS. BLASTORAH: Mrs. Koven, all I can say

8 on the matter on behalf of my client today is that I

9 agree with Ms. Seaborn, it is a discretionary matter

10 for the Minister of the Environment.

11 MADAM CHAIR: What we will do is we will

12 wait to hear from Ms. Seaborn with respect to her

13 client's position on what the Board has raised, and we

14 will then decide where to take it from there.

15 MS. SEABORN: Madam Chair, just one

16 comment of clarification from what Ms. Blastorah said.

17 At least one of the requests is a bump-up

18 request. The evidence from Mr. Armstrong was that this

19 is a primary -- that the Ashby-Trout Lake Road was a

20 primary access road in a Crown Management Unit. Under

21 the exemption order 11-9 that is treated as a request

22 that then has to be filtered through the Class

23 Environmental Assessment for Access Roads.

24 MS. BLASTORAH: I beg your pardon.

25 MS. SEABORN: That was a request that was

1 made in July of 1990 and I believe the evidence of Mr.
2 Armstrong was that there have been meetings with people
3 from both the Ministry of Natural Resources and the
4 Ministry of the Environment in relation to trying to
5 settle that particular dispute. Granted, there has not
6 been a formal decision from the Minister of the
7 Environment as to whether or not there will be a
8 bump-up to a full individual environmental assessment.

9 MS. BLASTORAH: And I apologize, Mrs.
10 Koven, I simply forgot about that one that is under the
11 Class Environmental Assessment for Access Roads and I
12 think we talked about that during my cross-examination.

13 MR. LINDGREN: And, Madam Chair, without
14 further belabouring the point, I do have one final
15 comment and, that is, we recognize that it is a
16 discretionary matter on the part of the Minister;
17 nevertheless, we think it's important and perhaps
18 desirable to find out if the Ministry of Natural
19 Resources has a policy or a position on whether or not
20 these bump-up requests or designation requests should
21 be granted during the currency of this hearing, and
22 that is why I raised that matter a few moments ago.

23 MR. CASSIDY: While we are all raising
24 matters, there is another problem with this that you
25 will see if you review that letter from the Minister as

1 he then was, Mr. Bradley, referring the matter to EAAC
2 with a November 30th deadline.

3 My client, Quebec and Ontario Paper
4 Company, has no idea what status of that deadline,
5 whether or not in fact they should be preparing for a
6 hearing, whether in fact they should be preparing to
7 make submission to EAAC in respect of that, and I would
8 appreciate when Ms. Seaborn attempts her clarification
9 if she could provide us with an explanation of that as
10 well: What's the status of that deadline.

11 And my concern about it is I would not
12 want my client to be in the position to find out a week
13 before the deadline that in fact, yes, you have got to
14 get something in within a week. And the thrust of my
15 position is that Ms. Seaborn, if at all possible,
16 should inform the parties to this dispute earlier
17 rather than later if that deadline is in fact going to
18 be maintained.

19 MADAM CHAIR: You have heard all this,
20 Ms. Seaborn?

21 MS. SEABORN: I will be in a position to
22 address the timing of the EAAC referral when I address
23 the larger issues and I'm hopeful that I can do that
24 shortly.

25 MADAM CHAIR: Thank you.

1 Mr. Lindgren, where were you?

2 MR. LINDGREN: I believe Mr. Tunnicliffe
3 was discussing his letter in Appendix Y and then Mr.
4 Cassidy rose to talk about the Quebec and Ontario Paper
5 Company's position on the matter.

6 Q. And I would like to turn to Appendix
7 Z which sets out the Quebec and Ontario Paper Company's
8 position on this matter.

9 And, Mr. Tunnicliffe, I'm not going to
10 ask you to review this document in detail, but I would
11 ask you to turn to page 5 of Appendix Z and can you
12 briefly discuss the terms of the proposal put forward
13 by the company and whether or not those terms are
14 acceptable to the cottagers?

15 A. Okay. The first one had to do with
16 Quebec and Ontario Paper Company, their offer to design
17 and construct a ski trail of better standard, greater
18 length and greater challenge through stands 58, 59, 60,
19 61, 362, 81, and 64.

20 I appreciate the offer, but as far as a
21 ski trail is concerned, we're not looking for a ski
22 trail that is bigger, wider, longer. The ski trail
23 that we designed was one that went around the trees and
24 not cutting down trees. We're quite capable of doing
25 that ourselves. In fact, that kind of investment in

1 our time is important to us because that is part of
2 cross-country skiing. So we're not interested in
3 bigger, wider, longer ski trails.

4 Point No. 2:

5 "The Marceau Lake Cottagers Association
6 would withdraw the EA designation request
7 currently on file with the MOE."

8 Certainly if we had a settlement and
9 everybody was happy that would happen, but it's asking
10 a lot at this time to agree to that.

11 No. 3:

12 "The Association would agree that the
13 skyline reserve indicated in the
14 1988-1993 timber management plan could be
15 amended to a 120-metre reserve along the
16 entire north shore of Marceau Lake
17 subject to verification of the
18 viewscape."

19 Well, I thought we had already achieved
20 that initially back in our first meeting with the
21 Ministry of Natural Resources, in that we have been
22 guaranteed a skyline reserve on the west side of the
23 lake. So that appeared to be no change from what we
24 considered we already had.

25 Point No. 4 --

1 MADAM CHAIR: Excuse me, Mr. Tunnickliffe.

2 THE WITNESS: Yes?

3 MADAM CHAIR: They're talking about a
4 120-metre reserve on the west shore of Marceau Lake.
5 That was always acceptable to you?

6 THE WITNESS: The skyline reserve was
7 what we had thought we had achieved already.

8 MADAM CHAIR: As different from a
9 500-metre reserve?

10 THE WITNESS: No. It was a 500-metre
11 reserve, that is our position as of today, that we are
12 requesting a 500-metre reserve around the entire lake,
13 but the point was, we thought the Ministry had already
14 guaranteed a skyline reserve.

15 MADAM CHAIR: Of 120 metres?

16 THE WITNESS: No, a skyline reserve would
17 have to extend far more than 120 metres. In fact, Bob
18 Fleet from the Ministry of Natural Resources and I
19 walked that west side of the lake and it would have to
20 be at least 250 metres to guarantee a skyline reserve
21 and, in fact, our position at this time is that 500
22 metres is what we're asking.

23 MADAM CHAIR: All right, thank you.

24 THE WITNESS: No. 4, I'm on page 6 of the
25 Quebec and Ontario Paper proposal. No. 4:

1 "The Association would save the company
2 and MNR harmless from action of any type
3 when or as the lake reserve deteriorates
4 due to overmaturity and other causes of
5 nature."

6 I was never really clear what they meant
7 by this, but I'm not sure from a legal point of view
8 what it would mean to us, to save the company and MNR
9 harmless. I can only guess as to the meaning of that.

10 No. 5:

11 "The Company would consider the area
12 between the cottage lot lines and the
13 main forest access road unavailable for
14 harvest allocation. The responsibility
15 for management subject to OMNR approval
16 would rest with the Association."

17 Again, that was a fact that we thought we
18 were already given at the first meeting with the
19 Natural Resources. What that is saying is they won't
20 cut between the main road and the cottages.

21 No. 6:

22 "The Company would annually provide the
23 Association with a distinct opportunity
24 to comment on all forest management
25 activities within 500 metres of Marceau

1 Lake. Furthermore, the Association will
2 be asked for direct input including
3 specific plans and suggested
4 modifications for activities occurring
5 within 250 metres of Marceau Lake."

6 That's fine to make that suggestion, but
7 as far as we were concerned there were no teeth in
8 that. They were asking for suggested input and our
9 confidence level is not that high, so it is something
10 that really guarantees us nothing other than input.

11 MADAM CHAIR: This is on point 6?

12 THE WITNESS: Right.

13 MADAM CHAIR: And the company is assuming
14 that there would be some modified operations in the
15 reserve area?

16 THE WITNESS: I would assume so. They're
17 suggesting, I would guess, that they're going to do
18 lumber operations within the 500-metre reserve.

19 MADAM CHAIR: And the cottagers point of
20 view is that it would be an entirely no-cut reserve?

21 THE WITNESS: That's what we would
22 prefer.

23 MR. MARTEL: Are they talking about
24 discussion of modified cutting between 250 and 500,
25 which seems to be the skyline reserve on one hand and

1 the area that they might want to get into between the
2 250 and 500 on the other hand, so that you get input
3 into that area?

4 THE WITNESS: I'm not sure.

5 MR. MARTEL: Because I think you
6 indicated that you and Mr. Fleet went out and it would
7 take about 250 metres for the skyline reserve, and if
8 that is the case, it looks as though there's a
9 willingness to discuss anything between 250 and 500.

10 THE WITNESS: On the Association's part?

11 MR. MARTEL: No, on behalf of the company
12 I guess and MNR, it certainly looks that way from that
13 paragraph.

14 THE WITNESS: Yes.

15 MR. CASSIDY: Did you say MNR, Mr.
16 Martel? I'm sorry, did you just say MNR? This is the
17 Quebec and Ontario.

18 MR. MARTEL: Yes, but MNR makes the final
19 decision with respect to all forest management
20 agreements; don't they?

21 MR. CASSIDY: Okay.

22 MR. MARTEL: Yeah. And it seems that the
23 figures have gone around -- the only thing I'm putting
24 together is that Mr. Fleet walked the area and the
25 reserve they thought would take 250 metres, I think Mr.

1 Tunnickliffe said, to put that reserve in place and so
2 it appears that the discussion is between the 250 and
3 the 500 for input, if the 250 skyline reserve were in
4 fact put in place.

5 MR. LINDGREN: Q. In your view, Mr.
6 Tunnickliffe, is the opportunity to comment on those
7 proposed operations a right the Association already
8 enjoys?

9 A. It would enjoy it if we had a
10 500-metre reserve, but I think what my concern with
11 this whole thing is they ask for input but will our
12 input be followed? Does it mean anything?

13 The way I see this worded is they can ask
14 for input but whether in fact they follow our input is
15 another question. In other words, there's no
16 guarantees we have that what we suggest is going to be
17 followed.

18 No. 7:

19 "The Company would annually make
20 available to the Association and other
21 user groups a quantity of tree nursery
22 stock of various species for planting as
23 the Association saw fit to enhance
24 property values, viewsapes, ski trails,
25 et cetera."

1 We said that was a nice gesture on their
2 part, whether in fact we would take advantage of it or
3 not is something else. No. 8:

4 "The Association would by virtue of this
5 agreement acknowledge that forest renewal
6 operations in future allocated stands
7 surrounding the lake, save and except the
8 lake reserve and the 60-metre deferred
9 harvest zone east of the forest access
10 road, are acceptable."

11 Well, obviously we're not in agreement
12 with that. We're still suggesting 500 metres is the
13 distance they should be away from the lake. No. 9:

14 "The Association will in future make
15 application to the MNR and solicit
16 company input assistance prior to
17 initating any future land use projects."

18 And we agree with that. No. 10: L

19 "The Company will ensure that a 60-metre
20 deferred harvest reserve herein referred
21 to as a free to grow reserve is
22 maintained opposite the cottage
23 subdivisions on the east side of the
24 forest access road."

25 Now, we had assumed that we were to have

1 a 60-metre deferred harvest zone for the entire length
2 of the road where it passed Marceau Lake, not just
3 behind the cottage, and we thought that had been agreed
4 to at the first meeting with the cottagers back in
5 1987. So they're offering us here less than what we
6 thought we already had achieved.

7 "The free to grow reserve will serve as a
8 viewscape buffer between all renewal
9 operations east of the road and the
10 actual road. At some point in time when
11 the trees and the renewal area behind a
12 section of the reserve are at least one
13 metre in height, the Company may harvest
14 and conduct renewal operations on the
15 specific reserve site."

16 One metre in height is not a very big
17 tree and, in fact, at our initial meeting again with
18 Natural Resources we thought 2.5 metres had been agreed
19 on. So here again they're offering us less than what
20 we thought we had already achieved.

21 Q. And, Mr. Tunnickliffe, are your
22 responses to this proposal by the company more fully
23 set out in Appendix EE?

24 A. Yes, they are.

25 Q. And I understand that you had a

1 meeting with the Quebec and Ontario Paper Company and
2 MNR to discuss this matter?

3 A. Yes, we did.

4 Q. And can you indicate what occurred at
5 this meeting and when it occurred?

6 A. This meeting occurred on January the
7 10th, 1990.

8 Q. July?

9 A. Sorry, July 10th, 1990. Quebec and
10 Ontario Paper Company had Laing Bennett and Bob MacLean
11 present, the Marceau Lake Cottagers Association had
12 Phil Doiron, Romeo Natolino and myself present, and the
13 MNR had Bob Fleet.

14 Q. And you're reading from Appendix CC?

15 A. That's right. Now, if I could go
16 back to BB for a minute just to possibly go over if
17 there's any difference. I think I have explained our
18 response. I would like to note something though in
19 part (b). Okay?

20 Q. Certainly.

21 A. Part (b) of Appendix BB, it's the
22 third page in, something we suggested was that there
23 could be selective thinning of timber reserves within
24 the 500-metre area.

25 We have always contended that we're not

1 against forestry operation; what we are against in the
2 near vicinity of Marceau Lake is clearcutting. We're
3 suggesting here that selective thinning could take
4 place, in fact as I understand it, there is a horse
5 operator in Timmins who is using horse logging
6 techniques and making a living out of it and to us that
7 would be quite acceptable to have horse logging occur
8 within the 500-metre zone of the lake.

9 Now, when I broached this to the Quebec
10 and Ontario Paper Company's representative, I think
11 they felt that horse logging would be out of the
12 question. I asked them if they had any equipment that
13 could selectively cut timber and, as I understand it,
14 there is equipment available to do that, but apparently
15 Quebec and Ontario Paper do not have such equipment.

16 Now, if they could come into the
17 500-metre area and selectively cut, using the criteria
18 that I have outlined here in part (b) - I'm reading
19 from the second paragraph, I'm suggesting in No. 1:

- 20 "1. No large areas are to be cleared;
- 21 2. The emphasis would be on thinning
- 22 the bush and not clearcutting;
- 23 3. The skyline viewscape would remain
- 24 intact; and,
- 25 4. Only the most mature trees would be

1 removed."

2 Now, I understand with mature trees that
3 where we are the trees are all roughly the same age and
4 it was pointed out to me subsequently that it's very
5 hard to go in and just cut mature trees, but if it
6 could be a thinning mechanism of some kind, we would be
7 in favour of that and we support that.

8 Q. And at the meeting of July 10th, was
9 that proposal put forward?

10 A. Yes, it was.

11 Q. And was the company prepared to
12 accept that proposal or were they prepared to revise
13 any of the terms of the company's proposal?

14 A. No, no. They said they did not have
15 the equipment to selectively cut and, as I understood
16 their comments about horse logging, it was something
17 that just wouldn't be feasible. Now, I would like --

18 MADAM CHAIR: Mr. Tunnickliffe, we have
19 done lots of site visits around northern Ontario and I
20 am curious about what equipment you would need to do
21 selective cutting; I mean, what goes beyond having a
22 crew with chain saws? Are they talking about the
23 transportation, is that more of a problem than actually
24 cutting?

25 THE WITNESS: I would think you would

1 have to use chain saws to selectively cut and then have
2 small pieces of equipment that could pull those logs
3 out to the road.

4 MR. MARTEL: Did you say such equipment
5 is available?

6 THE WITNESS: That's my understanding,
7 that there are other countries in the world that --
8 that's all they do is seletively cut. I'm not an
9 expert on this, but I understand in --

10 MR. MARTEL: Is it in the boreal forest
11 though that they're doing it in other countries; do you
12 know, or is it hardwood, or...

13 THE WITNESS: No, I'm talking about
14 Norway, Sweden, Germany, and those are coniferous trees
15 to my understanding, that they are not clearcutting.
16 In New Zealand I understand they mark trees and those
17 are the ones they pull out rather than going in and
18 cutting huge areas of trees.

19 So I understand the technology is there,
20 but it's not one that we're using here, but I would
21 imagine the economics of it are probably not as
22 fruitful as the methods they use now.

23 MR. LINDGREN: Q. Can I refer you to
24 Appendix CC and I would ask you to explain the comments
25 that you make on the bottom of the page with respect to

1 the Ministry of Natural Resources position on this
2 issue?

3 A. After it appeared -- at this meeting
4 it was obvious that Quebec and Ontario Paper were
5 entrenched in their position and we were entrenched in
6 our position and it was going to be difficult to
7 achieve a compromise between the two.

8 Bob Fleet then indicated that the
9 Ministry of Natural Resources was prepared to take over
10 and issue a final proposal to us that we could accept
11 or reject, and assuming that it was accepted, that
12 would be the end of the dispute; if it was rejected,
13 then as I understood the conversation, he had a couple
14 of choices to make: One was to allow the EAAC
15 hearing -- allow the dispute to advance to an EAAC
16 hearing or a full-blown environmental assessment, or
17 the other alternative was that MNR was prepared to
18 issue a unilateral decision on the matter, that they
19 would make the decision as to where it ended up.

20 We understood that there were a couple of
21 other disputes in northern Ontario and that the
22 Ministry of Natural Resources was making a decision
23 themselves on how that was going to end up.

24 Q. Given that your designation request
25 or your bump-up request was still outstanding, was that

1 an acceptable process or procedure in your view?

2 A. It wasn't acceptable at all from our
3 point of view. I didn't even think that they could do
4 that, but they mentioned this exemption order 11-9,
5 this would allow them to do that. But I was very
6 concerned that it was suddenly going to be taken out of
7 our hands; that the negotiations, although it appeared
8 to be a stalemate, they were going to be taken out of
9 our hands and a unilateral decision was to be made.

10 Q. And I understand that you wrote to
11 the Minister of the Environment about that issue?

12 A. Yes, I did.

13 Q. And that is Appendix DD?

14 A. That's right.

15 Q. And can you briefly explain to the
16 Board the nature of this letter?

17 A. I'm looking at the first paragraph
18 and if I might just read it:

19 "I am writing to you as President of
20 Marceau Lake Cottagers Association. We
21 have a designation request before your
22 Minister at the present time for an
23 Environmental Assessment of the situation
24 at our lake. I am most disturbed today
25 after a meeting with the Quebec and

1 Ontario Paper Company representatives and
2 the Ministry of Natural Resources. The
3 meeting had been requested to allow our
4 Association to respond to the Quebec and
5 Ontario Paper Company proposal dated June
6 25th, 1990. After reading my response
7 there was considerable discussion that
8 indicated we were not really close to an
9 agreement. Following our decision, the
10 MNR representative Bob Fleet indicated
11 that if he could not seek grounds for
12 agreement that the whole issue was being
13 taken over by the MNR."

14 Q. Mr. Tunnicliffe, where there is a
15 designation request or a bump-up request that has been
16 made, is it your position that no timber management
17 activities should be permitted in the area in question
18 until the request has been resolved?

19 A. Oh, I would strongly agree with that.
20 If there's a designation request, I don't think
21 anything should be happening. And I must say that MNR
22 was quite good about that in our case. They did
23 outline the 500-metre buffer zone and they didn't allow
24 cutting within that.

25 Q. To finish up, Mr. Tunnicliffe, I

1 would like to review some of the more recent
2 correspondence with you and I would like to refer you
3 to MNR Interrogatory No. 24, which is in the
4 interrogatory package marked as Exhibit 1465.

5 MADAM CHAIR: That was No. 24, MNR?

6 MR. LINDGREN: That's right, Madam Chair.

7 Q. And I would like to look first at
8 your letter dated --

9 A. I'm sorry, I'm having a little
10 difficulty finding it. Interrogatory, MNR Question No.
11 24?

12 Q. Question No. 24, and there is a
13 number of letters attached to it.

14 A. Right.

15 Q. And the first letter is dated July
16 10th, 1990 from the Marceau Lake Cottagers Association
17 to the Minister of Natural Resources?

18 A. Right.

19 Q. And in the middle of the second full
20 paragraph there's a statement that:

21 "The whole environmental assessment
22 process that we are attempting to follow
23 becomes a farce when your Ministry takes
24 a position that it is tired waiting
25 for the democratic process to occur and

1 decides to employ the heavy hand of
2 closure."

3 What did you mean by that?

4 A. I think just as I've described. I
5 had assumed that we had a designation request in front
6 of the Minister of the Environment and suddenly that
7 door seemed to be slammed closed and suddenly it was
8 back in the hands of MNR to make a final decision.

9 Q. I would ask you to turn to not the
10 next letter, but the following letter dated August 9th,
11 1990, to both the cottagers and the paper company from
12 the district manager. Does this letter set out the
13 MNR's proposed settlement of this issue?

14 A. Yeah, this is the letter of August
15 the 9th?

16 Q. That's correct.

17 A. Okay.

18 Q. And does this letter set out the
19 MNR's proposed settlement of this issue?

20 A. Yes, it does.

21 Q. And what is the Association's
22 position on the proposed settlement?

23 A. This letter was taken to a general
24 meeting of the Marceau Lake Cottagers Association.
25 They had a chance to read it. It was clearly explained

1 to them what was being offered. I must say, it was a
2 tremendous improvement over what we had been offered
3 before and it did take several things into account.
4 However, it did not meet the approval of the Cottagers
5 Association general vote. It was voted down by a very
6 large margin. Now, I believe that explains it.

7 Q. And can you indicate why it was
8 rejected by the cottagers?

9 A. I think, if I could interpret the
10 cottager's position on this, they have become very
11 frustrated over the last three years with this whole
12 negotiating procedure and, as a consequence, they are
13 looking at this and saying to themselves: Why do we
14 have to have cutting so close to our lake? Why does it
15 have to be so close? What is wrong with 500 metres?

16 In their mind, 500 metres is a very
17 reasonable request to make that would guarantee their
18 interest. This does not give us 500 metres and, as a
19 consequence, they very strongly voted it down.

20 Q. And then could I refer you to the
21 next letter in this package which is the Quebec and
22 Ontario Paper Company letter dated October 22nd, 1990
23 to the district manager, and I would like you to
24 comment on two portions of this letter.

25 The first is in paragraph 1, wherein the

1 second paragraph under paragraph 1 there's an
2 indication that:

3 "If the debate had simply been between
4 the two parties, Quebec and Ontario Paper
5 and the Cottagers Association, a
6 settlement would have been reached in
7 1988 or early 1989."

8 Do you have any comments on that
9 paragraph?

10 A. There's a good possibility that would
11 be true, if Quebec and Ontario Paper had taken an
12 interest in the debate very early on.

13 I visited Laing Bennett very early in
14 this debate - now, Laing Bennett is the representative
15 of Quebec and Ontario Paper Company - and we had a
16 meeting, what I had thought was an exploratory meeting
17 to see where we stood, and there seemed to be
18 absolutely no room for negotiation on their part. In
19 fact, as I remember it, Laing said: We'll have to wait
20 for MNR to make a decision on this.

21 Q. And when did this meeting occur and
22 whose idea was it?

23 A. This would have been in the spring of
24 1988 and it was at my instigation that it took place.
25 I phoned and made an appointment.

1 We have actually had two meetings, one
2 was in the spring of '88 and the last one was about a
3 month ago, and I think there is some notes from that
4 meeting that I can get into in a minute.

5 But, again, I was the one who phoned
6 Laing and suggested that maybe we should have another
7 look at it considering the fact that we're getting
8 further and further into this process; that maybe we
9 could talk about it and, again we had a frank
10 discussion but there appeared to be no common ground
11 that we could look at.

12 MADAM CHAIR: Excuse me, Mr. Tunnicliffe.
13 What do you think of the comments in the first point in
14 this letter that in fact because this hearing process
15 is going on, and presumably because you're a witness to
16 it, you have had a -- I don't know whether the
17 suggestion is here you've had a different interest or a
18 stronger interest in the situation or you've taken a
19 harder line with respect to the cottagers' position?

20 THE WITNESS: I'm sorry, are we on -- is
21 this...

22 MADAM CHAIR: I'm still on the August
23 22nd, 1990 letter in the first paragraph.

24 THE WITNESS: Yes. I probably could
25 point out that Ministry of Natural Resources did become

1 more interested in our case as the correspondence built
2 up; as the Environmental Assessment hearings were going
3 on, they became quite interested and the whole attitude
4 changed on their part that maybe they should be taking
5 it a little more seriously than they had in the past.

6 In the past, I had the distinct
7 impression that if we leave them -- if Ministry and if
8 Natural Resources leave us long enough we'll just kind
9 of go away, but we weren't prepared to do that.

10 And as it got more and more serious, I
11 think they took more and more of an interest, which I
12 was quite pleased about, and I think we made more
13 progress in the last six months than we have in, you
14 know, the three years that it's been going on.

15 MADAM CHAIR: And when did you decide to
16 become a witness for Forests for Tomorrow?

17 THE WITNESS: It was earlier in the
18 spring, in March. It was after the ski trail incident
19 and that is when I really got concerned.

20 MR. LINDGREN: Q. Mr. Tunnickliffe, the
21 other portion of the August 22nd letter that I would
22 like to refer you to is on the bottom of the first
23 page. There we find an indication from the company
24 that it does not support any selfish, single purpose
25 use of public lands for the enjoyment of any one

1 individual or group.

2 And, in your opinion, is the Cottagers
3 Association pursuing a selfish, single purpose use of
4 public land in this case?

5 A. I resent that remark very strongly to
6 indicate that it's a selfish, single purpose use,
7 indicating that the cottagers want to take over some
8 part of northern Ontario and keep it to themselves. I
9 don't -- that was never the case, that we have done
10 that.

11 The ski trail, for example, anybody can
12 use that ski trail. There was no sign on the trail
13 saying for use only by Marceau Lake Cottagers
14 Association. We have people visiting us all the time,
15 and the same with other cottagers, and we like to take
16 them out, show them some of the sites around our area.

17 We would like to think that we are
18 preserving some part of northern Ontario in its natural
19 condition for the future of our children and for the
20 children of other residents of Timmins and the Timmins
21 area.

22 When we talk about a selfish, single
23 purpose what ran through my mind when I read that was:
24 What about the lumber company, is that not a selfish,
25 single purpose user that is looking at that land in the

1 same light?

2 To me we were trying to make a
3 conservation effort, to preserve something the way it
4 was.

5 Q. And in light of your last comment, do
6 you regard clearcut as an example of a single purpose
7 use of crown Land?

8 A. Well, as I've said before, clearcuts
9 are essential -- let me back up. Clearcuts in the mind
10 of lumber companies are essential for an economic
11 recovery of timber, and I'm not going to argue that.
12 They obviously have done research on this and that's
13 the way they get the biggest return for their dollar.
14 Lumber companies employ tremendous numbers of people in
15 Ontario and the backbone of the economy of many small
16 communities, so I'm not prepared to say that that
17 should be stopped.

18 What I am prepared to say is that it
19 causes a tremendous change in the ecosystems of
20 northern Ontario, and I think we should be setting some
21 land aside to preserve its natural condition for the
22 future.

23 I believe when reforested areas come back
24 they come back, if they're planting jack pine,
25 obviously they're going to come back in jack pine and

1 we walk through a tended forest like that, it's not the
2 same as walking through a natural wilderness forest.
3 They're all the same species of tree, they're somewhat
4 limited, as I understand it, in the wildlife that is
5 going to be present there.

6 And I'm sure you've heard others more
7 qualified talking on that than myself, but I am
8 concerned that northern Ontario is turning into a tree
9 forest -- a tree farm, I should say, and that there are
10 going to be tremendous changes in the ecology of
11 northern Ontario, and I'm suggesting we should be
12 setting some areas aside.

13 So when they say it's a selfish, single
14 purpose use, I get annoyed.

15 Q. Mr. Tunnickliffe, I would like to
16 refer you to the last letter in this package which is a
17 letter from the Ministry of the Environment to Dr.
18 Phillip Buyer of the Environmental Assessment Advisory
19 Committee dated October 1st, 1980 and in this letter
20 there is an indication that the then Minister was
21 seeking the advice of the Advisory Committee with
22 respect to your designation request. I am wondering if
23 you have any comments on that process.

24 A. I haven't heard at all from Dr.
25 Phillip Buyer or I haven't heard from James Bradley or

1 the new Minister at this point on. I'm welcoming a
2 decision that we do have an Environmental Assessment
3 Advisory Committee meeting in Timmins and that we can
4 air some of our views to that Committee.

5 Q. Have you had any subsequent contact
6 with Mr. Fleet or the MNR about this matter?

7 A. Mr. Fleet called me -- when he heard
8 of the notice that James Bradley had contacted Phillip
9 Buyer, he called me at work and indicated that it had
10 taken place, and so there was that communication
11 between us at that time.

12 Q. And a few moments ago you indicated
13 that you had a very recent meeting with a
14 representative of the paper company, and can you
15 describe what has occurred and what was discussed?

16 And perhaps before you launch into that
17 discussion, I understand that you have received copy of
18 notes prepared by the company with respect to that; is
19 that correct?

20 A. That's correct.

21 MR. LINDGREN: And I would like to file
22 that as the next exhibit, Madam Chair.

23 MADAM CHAIR: This will be Exhibit 1470.

24 MR. HUFF: (handed)
25

1 ---EXHIBIT NO. 1470: Letter dated September 25, 1990
2 with notes prepared by QOP re
3 meeting between Grant
4 Tunnicliffe, Laing Bennett, and
 Bob Maclean at South Porcupine
 office of Quebec and Ontario
 Paper Company.

5 THE WITNESS: The letter is dated
6 September 25th, 1990, and it's with regard to a meeting
7 that I had with Laing Bennett and Bob MacLean of the
8 South Porcupine office September 20th, 1990.

9 MS. BLASTORAH: Did you get an exhibit
10 number for that?

11 MR. LINDGREN: 1470.

12 MS. BLASTORAH: Thanks.

13 MR. LINDGREN: Q. Mr. Tunnicliffe, can
14 you indicate who initiated this meeting?

15 A. I did.

16 Q. And can I ask you to turn to page 2
17 of the notes of the meeting, and at the bottom of the
18 page there's an indication that:

19 "Mr. Tunnicliffe acknowledged there is
20 obviously two different viewpoints."

21 And can you explain to the Board what you
22 meant by that, whether you said that?

23 A. I think in the discussions I've had
24 with Ministry of Natural Resources and the Quebec and
25 Ontario Paper Company it's very obvious we look at the

1 forests through two different pairs of glasses. Our
2 frames of reference are quite different.

3 I believe that, and rightly so, the
4 Quebec and Ontario Paper Company look at the economic
5 value of the trees that are standing in the forest and
6 analyse their forest as to when they should cut, how
7 much they should cut, and what the return is going to
8 be, and that's, I'm sure, part of the business of
9 forestry.

10 I believe that the Ministry of Natural
11 Resources looks at forests in much the same way. To a
12 great extent, the MNR people are trained in forestry.
13 They're trained in the economic harvesting of wood
14 fiber, and that's the view that they see when they look
15 at forests.

16 A cottager views the world much
17 differently; we are looking at a recreational use of
18 the forest. We're looking at the beauty of the forest.
19 We're more inclined to look at a pine tree with snow on
20 it and take a photograph of it, rather than think of
21 cutting it down and, as a consequence, we have a lot of
22 difficulty communicating and arriving at a consensus.

23 Q. Okay. I refer you to page 3 of the
24 same document, and in the second paragraph there's a
25 sentence which reads:

1 "MLCA feels that the original forest is
2 preferable to a production forest."

3 And what was meant by that comment?

4 A.- This is Mr. Bennett's wording I'm
5 sure, but the intent, as I would interpret it and I
6 would agree with, is that we are looking at a forest in
7 its natural condition rather than talking about a tree
8 farm. A production forest, I would view, as being a
9 planted forest; tended, sprayed, looked after for the
10 purpose of growing wood fiber and harvesting wood
11 fiber.

12 Q. Thank you. I'm showing and producing
13 to you a document entitled: Timber Management Planning
14 Getting Involved Can Make A Difference.

15 MR. LINDGREN: And, Madam Chair, it's an
16 MNR publication dated 1988 and it has been marked in
17 this hearing as Exhibit 815, and I have extra copies
18 here if the parties so require them.

19 Q. And, Mr. Tunnickliffe, have you seen
20 this document before?

21 A. Yes, I have. It's one that was
22 passed out by MNR.

23 Q. And when did you first become aware
24 of this particular document?

25 A. I can't give you an exact date, but I

1 have known of its existence, I'm going to say a year
2 but I could be wrong. I see 1988 is when it was
3 printed, but I am familiar with it.

4 Q. And I understand that you have some
5 comments to make about the cover.

6 A. I like the cover. The cover is an
7 excellent picture of, in my mind, how clearcuts should
8 occur. When I look at the depth of forest between the
9 clearcut and the water in a situation in northern
10 Ontario, we think that that is the way it should go;
11 but when I look at the aerial photographs that I've
12 taken around Marceau Lake, I see clearcuts that extend
13 for a considerable greater distance than this, and when
14 I look at clearcuts that are occurring near Split Rock
15 Lake and Peter Long Lake, they're entirely different
16 than what I'm seeing here,

17 Q. And you have provided to the Board a
18 copy of a photograph that you took of the clearcut in
19 the Triple Lakes area and this is Exhibit 1464, and
20 that is an example of what you were just talking about?

21 A. That's an example. That's an example
22 of what we're looking at.

23 MS. BLASTORAH: I'm sorry, Mr. Lindgren,
24 I just didn't get the photo number?

25 MR. LINDGREN: Photo No. 3.

1 MS. BLASTORAH: Thank you.

2 MR. LINDGREN: In Exhibit 1464.

3 MS. BLASTORAH: Thank you very much.

4 MR. LINDGREN: Q. Now, the title of this
5 document that has been marked as Exhibit 815, Mr.
6 Tunnicliffe, is Timber Management Planning Getting
7 Involved Can Make A difference. And to this point, Mr.
8 Tunnicliffe, can you advise me whether or not the
9 timber management planning process and your involvement
10 in it has made a difference?

11 A. It's made a difference to me
12 personally. I have spent a lot of time being concerned
13 with this. I have learned I think a fair bit more
14 about the forest than I knew before, but I am
15 frustrated in that we can't seem to come up with an
16 agreement.

17 I'm frustrated that MNR does not see the
18 world with the same glasses that we do. There are a
19 lot of things that are going on which I think are
20 worthwhile. There has been a lot of dialogue back and
21 forth, but it seems a very complicated way to arrive at
22 a decision, and I would like to see it streamlined in
23 some way so other organizations won't have to go
24 through the same process that we have.

25 Q. And could I refer you to page 7 of

1 this document, Exhibit 815. Under the heading
2 Environmental Assessment, there's an indication that:

3 "If significant issues still exist,
4 Ontario's Environmental Assessment Act
5 provides for further review. The plan or
6 parts of it may be referred to the
7 Minister of the Environment for an
8 individual environmental assessment."

9 Do you have any comments to make in
10 relation to that paragraph?

11 A. I think that is true, but I think you
12 have to be prepared to wait for a long time for an
13 answer if you follow the advice that's given here.

14 Q. The final question, Mr. Tunnickliffe,
15 is actually one that was posed by Madam Chair during
16 the scoping session for this evidence and that is:
17 where there is an impasse between the parties, what
18 should happen next?

19 A. I think there's a couple of things I
20 would like to say. One is, I think MNR has to
21 appreciate the fact there are other users of the forest
22 and I think they have to take their concerns seriously
23 very early on without having to go through all this
24 process of writing letters.

25 I really believe that if they were to

1 consider -- if we were to go back three years when the
2 whole thing started and if the Ministry of Natural
3 Resources had considered our request seriously and
4 looked at our brief seriously, I think a lot of this
5 could have been avoided. It would have stopped this
6 entrenching of positions that seemed to occur later on.

7 So one thing I would like to suggest is
8 that the people at the Ministry of Natural Resources
9 who are concerned with administering the forest
10 management plans take the public seriously when they
11 make representation to them.

12 Now, if I might add at this point that
13 there are a lot of people in the Timmins area that feel
14 you can't fight the Ministry of Natural Resources so
15 there is no point in arguing, and I have heard that
16 many times when I talk to other cottagers about cutting
17 around lakes.

18 I would like to see that idea dismissed.
19 I don't think that is a healthy thing for a Ministry,
20 that they have -- that the public has that perception
21 of them and I don't think it has to be.

22 I think officials from the Ministry of
23 Natural Resources whether it demands training, whether
24 it demands understanding, whether it demands more
25 dialogue, I don't know, but I think that is important,

1 that they deal with the public in a more concerned
2 manner and a more serious manner than what we
3 experienced.

4 MR. MARTEL: Can I ask a question,
5 because when you talk to the various interest groups
6 out there you hear the following comments: If you talk
7 to cottagers they say it's our lake; if you talk to the
8 industry they say it's our limits; if you talk to
9 someone else it's ours, and really it doesn't belong to
10 any of you. It belongs to the state who allows
11 everyone to utilize those various aspects of the forest
12 which are of interest to everyone.

13 And that's sort of - and I don't think
14 it's done deliberately - I think people simply start to
15 use those words but, in fact, the more you use them the
16 more entrenched they become, that some aspect belongs
17 strictly to one group.

18 And I'm not saying it's done deliberately
19 or maliciously or anything else, but isn't that how it
20 eventually ends up, that we look at it from our own
21 total, and there doesn't seem to be a willingness to
22 compromise or to negotiate our way out clearly?

23 THE WITNESS: Mm-hmm, and that is a
24 problem and that's how I think the mention of a
25 selfish, single-minded group that was mentioned in one

1 of our letters, I think that reflects that, that
2 attitude.

3 MR. LINDGREN: Q. And, Mr. Tunnicliffe,
4 have the Marceau Lake cottagers regarded the lake or
5 the area around the lake as theirs?

6 A. We have a lot of pride I think in the
7 cottages that we built and the environment that we
8 enjoy, but there are people visiting all the time.
9 It's a canoe route. There are no signs up that even
10 indicate this belongs to the Marceau Lake Cottagers
11 Association. There's a sign up that says Marceau Lake
12 Cottage Subdivision that the Ministry of Natural
13 Resources has put up, but we're quite willing to share
14 and we're not selfish in the sense that we want it just
15 for ourselves, but I think we have a considerable
16 investment of ourselves in that property, in that lake.

17 MR. MARTEL: Yeah, I understand what
18 you're saying. I'm just saying it's the perception
19 when you hear the dialogue that goes on that leads I
20 think to some of the entrenchment that might occur or
21 the appearance that that's what's happening. I'm sure
22 it's hard to shake, I mean, my lot at home is my lot,
23 you know, sort of thing.

24 MR. LINDGREN: Madam Chair, those are my
25 questions for Mr. Tunnicliffe.

1 MADAM CHAIR: Thank you, Mr. Lindgren.
2 Mr. Cassidy?

3 MR. CASSIDY: Yes. If I can just have
4 five minutes?

5 MADAM CHAIR: Certainly. Shall we have
6 lunch, Mr. Cassidy?

7 MR. CASSIDY: It's up to you, Madam
8 Chair. I'm prepared to proceed immediately.

9 MADAM CHAIR: And how long will you be,
10 Mr. Cassidy, today?

11 MR. CASSIDY: I would say approximately
12 an hour to an hour and a half and if I can finish
13 earlier, I'll be delighted but that's probably
14 reasonable, an hour to an hour and a half.

15 MADAM CHAIR: Thank you. Ms. Blastorah?

16 MS. BLASTORAH: I had originally
17 estimated - well, I don't know whether I ever
18 originally estimated anything - but there has been a
19 lot of evidence this morning and I'm going to have to
20 look at that over the lunch hour. I think I may be a
21 little longer than I originally anticipated because
22 some things came up that I wasn't planning to deal
23 with. I expect I'll be probably two hours anyway.

24 MADAM CHAIR: Mr. Tunnickliffe, were you
25 prepared to stay.

1 THE WITNESS: I wasn't planning on
2 staying over 'til tomorrow, is that what you mean?

3 MADAM CHAIR: Yes.

4 THE WITNESS: I can probably make
5 arrangements to do that.

6 MADAM CHAIR: Thank you.

7 THE WITNESS: But it was something that I
8 wasn't planning on doing.

9 MS. BLASTORAH: I can certainly attempt
10 to shorten that, Mrs. Koven. I'm just not sure if that
11 will be possible.

12 MADAM CHAIR: You're not cross-examining,
13 Ms. Seaborn?

14 MS. SEABORN: I'm contemplating one
15 question.

16 MADAM CHAIR: Mr. Lindgren, on
17 re-examination?

18 MR. LINDGREN: Oh, I will attempt to be
19 brief. In fact, I will be of the view that I will
20 probably not ask any questions, unless it's absolutely
21 necessary. I think it is important perhaps to finish
22 with Mr. Tunnickliffe's evidence today, if that is at
23 all possible.

24 Is there any possibility of sitting
25 beyond four o'clock?

1 MADAM CHAIR: Yes, Mr. Martel and I were
2 discussing, we don't want to keep Mr. Tunnickliffe away
3 from school for another day.

4 We will sit tonight and we expect counsel
5 to go as quickly as they can, and we'll finish,
6 hopefully, today.

7 MR. LINDGREN: Thank you, Madam Chair.

8 MR. CASSIDY: We will do our best, Madam
9 Chair. I might note that the original estimate for the
10 evidence-in-chief was shorter. It was one to two hours
11 as I recall, and I know what it's like to lead evidence
12 because I did it for four months, but I also want to
13 reserve rights if we get into some discussion, that
14 things are beyond my control in cross-examination as
15 well, but we'll do our best.

16 MADAM CHAIR: Thank you.

17 We'll be back at 1:30.

18 ---Luncheon recess taken at 11:50 a.m.

19 ---On resuming at 1:35 p.m.

20 MADAM CHAIR: Please be seated.

21 MR. CASSIDY: Good afternoon, Madam
22 Chair, Mr. Martel.

23 CROSS-EXAMINATION BY MR. CASSIDY:

24 Q. I would like to commence this
25 afternoon by looking at one of the slides that the

1 witness referred to this morning and that is slide No.
2 22. And I just have a question of clarification in
3 respect of that slide, Mr. Tunnickliffe.

4 You described this, I think in your
5 evidence this morning, as a landing or what you thought
6 was a landing or the area was used as a landing during
7 the harvest operation. Do you recall that?

8 A. Yes.

9 Q. And --

10 A. I don't think I used the term
11 landing.

12 Q. Just a second, sir, I'll ask the
13 questions and then you can jump in. When you gave your
14 evidence this morning, did you describe that whitish
15 area in front of the pile, did you describe that as
16 sand?

17 A. Yes, I did.

18 Q. All right. You took this photograph
19 in March or April of 1990; is that correct?

20 A. True.

21 Q. It's my information, sir, that that
22 is in fact snow. Are you in any position to disagree
23 if I were tell you that?

24 A. My impression was it was sand.

25 Q. Did you take the photograph?

1 A. Yes, I did.

2 Q. I see.

3 MR. CASSIDY: Madam Chair, I have a
4 photograph which I'm prepared to prove later through a
5 witness, if necessary, of the same area. I have two
6 copies only because I wasn't anticipating that the
7 witness would give this evidence, and I'm also prepared
8 to make further copies available for the parties later.

9 Q. And would you agree, Mr. Tunnickliffe,
10 that that is essentially the same area being viewed in
11 the photograph I just handed to you?

12 A. I would think it's the same area but
13 a different view.

14 Q. You would think it's the same area?

15 A. Yes.

16 Q. Yes. And would you turn over the
17 photograph, please, and would you read the date on the
18 back; does it state August 28th, 1990?

19 A. Yes, it does.

20 Q. All right.

21 MR. CASSIDY: As I indicated, I'm
22 prepared to prove the date on this photograph when it
23 was taken. My information is it was taken on or about
24 that date.

25 Q. Does that photograph show any large

1 degree of sand, Mr. Tunnickliffe?

2 A. I see sand.

3 Q. Yes?

4 A. Yes.

5 Q. But it does not dominate the site;
6 does it?

7 A. Not in this view.

8 Q. In fact there's a large degree of
9 vegetation in that photograph I have handed to you?

10 A. Can I respond to you?

11 Q. That is what I'm asking you to.

12 A. There's also vegetation I think in
13 the slide I have, but it's a different view, was what I
14 was --

15 Q. I see. So your view then -- your
16 position then is that that is not the same site, the
17 photograph I've just showed you, and photograph No. 22?

18 A. Certainly it's the same site but a
19 different view.

20 Q. I see. And does the view matter,
21 sir, when there's vegetation in the picture?

22 A. I think the question is: Is there
23 sand there? And I would say: Yes, there is sand --

24 Q. No, I asked you: Does the view
25 matter, sir, when I'm showing to you a site that is the

1 same site as you've indicated that shows vegetation?

2 A. Certainly the view makes a
3 difference.

4 MR. CASSIDY: Okay. Can we have that
5 entered as the next exhibit.

6 MADAM CHAIR: That will be Exhibit 1471.
7 And could you describe it again, Mr. Cassidy?

8 MR. CASSIDY: It is a photograph taken on
9 or about August 28th, 1990 of the site referred to in
10 the photograph No. 22 filed by Mr. Tunnicliffe.

11 MADAM CHAIR: That was slide No. 22?

12 MR. CASSIDY: Yes. If I said photograph
13 I meant slide.

14 ---EXHIBIT NO. 1471: Photograph filed by OFIA/OLMA
15 taken on or about August 28, 1990
16 depicting same site as Slide No.
22 in Grant Tunnicliffe's
evidence (FFT Panel No.2).

17 THE WITNESS: Can I add something?

18 MR. CASSIDY: Q. You'll have your
19 opportunity. Go ahead.

20 A. Photograph 22C shows an area very
21 close to that and it's obviously sand. We walked
22 through a channel, if you like, that was cut through
23 the trees and there was lots of sand there.

24 Q. Fine, thank you. Now, I want to move
25 to a portion of your evidence that you had right at the

1 end of your evidence this morning in which you were
2 asked about the meeting that you had with Mr. Bennett
3 on September 20th, 1990 and you have filed an Exhibit
4 1470 in respect of that meeting, and Mr. Lindgren asked
5 you who initiated the meeting and you said you did. Do
6 you recall saying that this morning?

7 A. Can I clarify, we're talking about
8 the same document. These are the minutes?

9 Q. These minutes right here.

10 A. (indicating)

11 Q. That is it.

12 A. Okay.

13 Q. Do you recall giving that evidence
14 this morning?

15 A. Yes.

16 Q. That you initiated the meeting?

17 A. Yes.

18 Q. And I was interested to see, sir,
19 that you did not refer to a letter which was sent to
20 you dated September 5th, 1990 from Quebec and Ontario
21 Paper, and Mr. Tomchick will provide you with a copy of
22 that, as well as the Board and the parties. And you
23 got this letter; correct?

24 A. Yes, I did.

25 Q. And if I could take you to the last

1 page, page 5.

2 MR. CASSIDY: Madam Chair, since the
3 witness has indicated that he got this letter, I would
4 ask that it be marked as an exhibit which I believe
5 would be Exhibit 1472.

6 MADAM CHAIR: That's right, Mr. Cassidy.

7 MR. CASSIDY: Letter dated September 5th,
8 1990 from Quebec and Ontario Paper Company Limited
9 signed by Mr. Rob Tomchik to Mr. Tunnickliffe.

10 MADAM CHAIR: How many pages is that, Mr.
11 Cassidy?

12 MR. CASSIDY: Five pages, Madam Chair.

13 ---EXHIBIT NO. 1472: Five-page letter dated September
14 5, 1990 from Quebec and Ontario
15 Company Limited signed by Mr. Rob
Tomchik to Mr. Grant Tunnickliffe.

16 MR. CASSIDY: Q. And I would ask you to
17 read that last paragraph, Mr. Tunnickliffe, where it
18 states on page 5:

19 "We would ask that you share these
20 clarifications with the members of the
21 MLCA and advise us if you require any
22 further information or wish to discuss
23 this further."

24 Would you agree with me, sir, that this
25 letter sets out several points that clarify or attempt

1 to clarify the June 25th proposal that was made by
2 Quebec and Ontario Paper; would you agree with that?

3 A. Yes, I would.

4 Q. And would you agree that in fact the
5 company asked you to contact them if you had any
6 further questions, sir, as indicated by the paragraph I
7 just read out on page 5?

8 A. It states:

9 "...to advise if you require any further
10 information or wish to discuss this
11 further."

12 Q. Right. So the answer to my question
13 is yes?

14 A. In fact I did talk about this letter
15 with members of the Marceau Lake Cottagers Association
16 and they did not wish to make any -- did not ask for
17 any further clarification.

18 The meeting that I arranged with Laing
19 Bennett was on my own and not as a result of this
20 letter. The invitation is there, I grant you that.

21 Q. Thank you. Now, I would like to move
22 you back to some pages in this letter which indicate -
23 in respect of your suggestion for horse logging, and I
24 would like to refer you to the bottom of page 3 - that
25 in fact the company - and since you received this

1 letter I think I can move fairly quickly through this
2 and paraphrase this letter for the benefit of the
3 Board - that in fact the company indicated that
4 although they were not in agreement with the
5 fundamental principles regarding the horse logging,
6 they were prepared to try that program in the area and
7 would be interested in having your involvement in its
8 planning and implementation of such a program.

9 And would you agree that that's the
10 thrust of the portion of the letter from page 3 on to
11 the end?

12 A. Yes. What I would like to find is
13 the area that you suggested. You suggested -- as I
14 remember this letter, horse logging might be possible
15 in one area, and as I remember looking at that area, it
16 was a relatively small area compared to the area around
17 Marceau Lake.

18 Q. That is fine. The company, however,
19 did indicate a willingness to try that program in that
20 area; is that correct, sir?

21 A. In that one small area, yes.

22 Q. The Papakomeka Road, have I
23 pronounced that correctly? .

24 A. Yes.

25 Q. The Papakomeka Road which you

1 attempted to draw in red pen in Exhibit 1466 was a
2 forest access road funded through the forest management
3 agreement with Quebec and Ontario Paper; are you aware
4 of that?

5 A. That road has been in existence for
6 30 years anyways.

7 Q. I understand that, sir. The
8 improvements to that road, however, were done through
9 that FMA program. Are you in a position to agree or
10 disagree with that?

11 A. I'm not in a position to comment on
12 that.

13 Q. So in that sense then you would not
14 be in a position to disagree with me if I were to
15 suggest to you that that is in fact the case?

16 A. What I do know is there was over a
17 million dollars spent on that road, but it was prior to
18 1985, as I remember it.

19 Q. Yes.

20 A. And there was crushed gravel that was
21 put on that road, and I do not have the exact year that
22 was done.

23 Q. If I told you that was built as, or
24 improved as a forest access road, you would not be in a
25 position to disagree with me; is that correct, sir?

1 A. That's correct.

2 Q. Your cottagers use that as access to
3 the cottage?

4 A. That's true.

5 Q. And in fact that's improved the
6 access to your cottages; has it not, from the wild
7 venture that you first had?

8 A. Yes, but the improvements did not
9 come to my recollection after 1985. There was a
10 gradual improvement. In fact, there's a second road
11 which we call the --

12 Q. The old road.

13 A. The Triple Lakes Road and that's
14 another access to the cottage.

15 Q. All right. But getting back to the
16 road I'm interested in--

17 A. Mm-hmm.

18 Q. --that road does provide easier
19 access to your cottage from what it once did; is that
20 correct?

21 A. From what it once did, yes.

22 Q. Yes. You might be interested in
23 waiting for the whole question, sir. I'm not going to
24 try and interrupt you and try not to interrupt me.

25 A. Okay.

1 Q. Now, I want to ask you about the ski
2 trail, the ski trail that was proposed by the Quebec
3 and Ontario Paper Company. The company in the Appendix
4 Z, their letter dated June 25th, offered to design and
5 construct a ski trail of a better standard and you
6 referred to that in your evidence this morning.

7 MR. CASSIDY: That was in the source
8 book, Madam Chair, and Mr. Martel, Appendix Z, as I
9 indicated, page 5.

10 Q. And the proposal stated, page 5 of
11 Appendix Z, letter dated June 25th, and it stated
12 that -- the proposal stated that the Ministry and QOP
13 with Association input would design that ski trail.

14 I take it from your evidence this morning
15 that you in fact rejected that proposal out of hand; in
16 other words, you made no further attempts to talk about
17 the design or give any input into what a new trail
18 would be like; is that correct?

19 A. I looked at the area that was
20 proposed and I did not agree that that would be a
21 suitable area for our ski trail. We were quite happy
22 where we were.

23 Q. Did you discuss that with the
24 company, the actual location of a new ski trail?

25 A. Well, in the sense that it was

1 discussed at the meeting when we -- when I replied to
2 the proposal that Quebec and Ontario had made.

3 Q. I understand, sir, and again I'm
4 prepared to call evidence that in fact you simply
5 stated your position at that meeting that you were
6 unprepared to consider the relocation of the ski trail.
7 Are you saying that I'm wrong?

8 A. Could I refer you to Appendix BB,
9 it's a letter from myself to the Quebec and Ontario
10 Paper Company. This was the actual letter that I had
11 in my hand and I provided copies to Quebec and Ontario,
12 Ministry of Natural Resources at our meeting and item
13 No. 1:

14 "Offer to design and construct a new ski
15 trail."

16 I think if you will look, it indicates
17 that it was considered, it was mentioned at that
18 meeting.

19 Q. You mentioned it and you in fact
20 indicated those reasons. Did you do anything further?
21 Did you have any exploratory discussions of any kind
22 with respect to where the trail would be located?

23 A. I'm not sure how far I'd have to go.
24 I think I've answered your question.

25 Q. Well, as I understand your answer,

1 you simply indicated what your response was, and I'm
2 just simply trying to clarify that's all you did. You
3 did not get into any discussion about where the trail
4 might in fact go, or am I wrong?

5 A. It's on the stand map and I had
6 looked at the stand map to see where it would be
7 located.

8 Q. All right. Am I correct, sir, that
9 that proposed trail in the stand map you looked at in
10 fact exceeded or went beyond 500 metres from the
11 lakeshore line?

12 A. I can't answer that. I don't know.

13 Q. You didn't explore that?

14 A. I did not know where the 500-metre
15 line was.

16 Q. You didn't go out and pace off any
17 500-metre line? I thought you were treating this as a
18 serious proposal, sir?

19 A. I'm afraid I can't do that. If you
20 would like to come and try and pace off that up and
21 down -- we're talking about esker country here.

22 Q. You're the president of the
23 Association; right?

24 A. Right.

25 Q. Your other cottagers depend on you

1 for a large amount of the work as a result of this
2 organization getting involved this process?

3 A. That's true.

4 Q. But in fact you have others that may
5 help you out in the process as well doing research or
6 doing work of some nature for you on this process?

7 A. I'm not sure what you mean by that.

8 Q. Well, are you the only one in the
9 cottagers association that's involved in this process,
10 or do you have help?

11 A. I have an executive, yes.

12 Q. And are you telling me that no one on
13 the executive nor yourself actually paced out the
14 500-metre reserve to determine where the proposed ski
15 trail might go within or without that reserve?

16 A. If I could respond to that, I would
17 like to say that when you start pacing off in the bush
18 and walking around trees and going up hills and down
19 hills, there's no way you're going to arrive at 500
20 metres.

21 Q. The answer to my question is no; is
22 that correct?

23 A. Yes.

24 Q. Thank you. Now, did you, in respect
25 of the ski trail you indicated I believe in an answer

1 to an undertaking that -- I'm sorry, not in the answer
2 to the undertaking, but in this response, Appendix BB,
3 that the location or suggested location is in fact too
4 far from the cottage sites. Do you see that where I'm
5 referring to paragraph (a) there under No. 1?

6 A. Right.

7 Q. That's too far from your cottage;
8 sir, or too far from cottages south of you?

9 A. Where the beginning of the ski trail
10 now is opposite lot No. 23, okay. In fact, if you look
11 at the location that was suggested here it's much past
12 lot 25; in other words, it's not behind any cottage
13 lot, which would mean everybody would have to go down
14 to the far end if they were to use it.

15 Q. I see. And are you aware, sir, that
16 in the September 5th, 1990 letter which was filed just
17 a moment ago, that there was a proposal to bring the
18 entrance of the proposed trail up to the existing
19 entrance?

20 A. I'm sorry, which letter was that?

21 Q. The letter dated September 5th, 1990,
22 Exhibit 1472. And I can refer you page 2 and I'm
23 looking at the little (i) under paragraph (b).

24 A. Yes, I remember that:

25 "The new trail would be connected to

1 existing portions of the original trail."

2 Q. So you agree that that is in that
3 letter, I take it. Would you agree that that is an
4 attempt to meet your concern with respect to the
5 location of the trail?

6 A. I would have to look at the entire
7 length of the trail to see that.

8 Q. I see. So that is not something you
9 would rule out automatically without doing that
10 process; is that correct?

11 A. I'm sorry, I don't understand the
12 question.

13 Q. You wouldn't rule out that potential
14 solution without looking at the whole ski trail; is
15 that what you're tailing me?

16 A. It certainly could be considered, but
17 in my view and at the time this was written it was too
18 far away, but that is something that could be
19 considered.

20 Q. So there is room in terms of getting
21 this thing sorted out; is there not, sir?

22 A. I would like to hope so. I would
23 truly like to hope so.

24 Q. Well, now I want to go to the part
25 where you told us that in your witness statement.

1 MR. CASSIDY: And I am looking, Madam
2 Chair and Mr. Martel, in his witness statement at
3 paragraph 23.

4 Q. Do you have that, Mr. Tunnicliffe?

5 A. Yes, I do. Page 10?

6 Q. That's correct. In paragraph 23 you
7 state that:

8 "The Association at its March 3rd, 1988
9 meeting discussed the ski trail options
10 and decided that the trail would remain
11 in place since it was well established
12 and well used by the cottagers."

13 But you indicated in response to some
14 questions from Mr. Lindgren yesterday and today that
15 MNR has knowledge of the trail, has never acquired you
16 to get a land use permit.

17 And I'm curious, sir, to know how it is
18 that just because MNR has knowledge of the trail and
19 has not required you to get a permit that you get the
20 power as an association to make a land use decision?

21 MR. LINDGREN: Madam Chair, that calls
22 for a legal answer that this witness cannot possibly
23 provide.

24 MR. CASSIDY: It's not a legal question.
25 I'm asking what his authority is, I'm not asking about

1 the merits of the authority.

2 MR. LINDGREN: That's a legal question,
3 Madam Chair.

4 MADAM CHAIR: You're asking Mr.
5 Tunnickliffe what his authority is to use the ski trail?

6 MR. CASSIDY: Yes.

7 MADAM CHAIR: Well, obviously the MNR is
8 allowing him to use the ski trail.

9 MR. CASSIDY: And make a land use
10 decision of that nature, Madam Chair. It's the
11 decision I'm interested in, that's his words.

12 MR. LINDGREN: Madam Chair, that clearly
13 calls for a legal opinion from this witness and he's
14 not a lawyer.

15 MR. CASSIDY: I dispute that it calls for
16 a legal opinion. I'm asking him what authority, I'm
17 not asking him to state the reasons for this authority
18 or the reasons for why he believes that.

19 If he held a view from a lawyer and if he
20 says that he got a legal opinion, that would be left at
21 that, I wouldn't enquire into the merits of it.

22 And I'm simply asking for the basis of
23 why he believes the association can make a decision on
24 a land use permit because MNR has not required them to
25 get a land use permit.

1 MADAM CHAIR: Mr. Tunnicliffe, with
2 respect to this paragraph, what did you mean when you
3 constructed this --

4 THE WITNESS: If I could suggest here,
5 the Marceau Lake Cottagers Association is not a
6 decision-making body. I think we would be subjected to
7 whatever rules and regulations the Ministry of Natural
8 Resources imposes on us. We're not asking to make a
9 decision here.

10 MR. CASSIDY: Q. So in fact the wording
11 in paragraph 23 is poor. You can't decide anything;
12 can you, Mr. Tunnicliffe?

13 A. Let me just -- we discussed the ski
14 trail options, decided the trail would remain in place.
15 As an organization, that was our position, that the
16 trail would remain in place. But obviously we're
17 citizens of Ontario subjected to the laws of Ontario
18 and if we are forced to move, we move.

19 Q. Thank you.

20 MR. MARTEL: Is it not a fact in northern
21 Ontario that many such little roads and trails that MNR
22 is well aware of exist and people use them for a
23 variety of reasons, to walk into lakes, to cross
24 streams, to portage boats, and the whole business
25 without permission?

1 THE WITNESS: Exactly, and ski-doo trails
2 are all over the north, and I don't think there's any
3 reason why that should change.

4 MR. CASSIDY: Q. Now, I want to turn to
5 the tourism guidelines and I believe you have a copy or
6 an excerpt from the tourism guidelines in the source
7 book.

8 And that can be found at Appendix L which
9 is in the source book for this panel, Madam Chair.

10 And let me clarify a few things. You are
11 not a tourist operator; are you, Mr. Tunnickliffe,
12 you're a teacher?

13 A. That's true.

14 Q. Correct?

15 A. True.

16 Q. And there is in fact no tour
17 operators -- do you have that, Madam Chair?

18 MADAM CHAIR: No, we're at K, O, L. All
19 right, go ahead.

20 MR. CASSIDY: It's the cover page and
21 then there's what appears to be a one-page excerpt
22 filed as Appendix L, which is all we need look at for
23 my purposes as well.

24 Q. Just to go over that again, Mr.
25 Tunnickliffe. You just confirmed for me that you are

1 not a tourist operator. Can you also confirm for me
2 that there are in fact no tourist operators on the
3 Marceau Lake?

4 A. True.

5 Q. And in fact the ski trail is not
6 advertised as a tourist operation; is that correct, by
7 anyone in the association?

8 A. Not advertised, no.

9 Q. Okay. There are no signs which say
10 come visit our ski trail?

11 A. No.

12 Q. All right. The clause under 4.6.3 on
13 that page states that:

14 "New trail systems should not be planned
15 by the tourist operator without
16 collaboration with those responsible for
17 planning current and future timber
18 operations in the area."

19 I take it that it is your position that
20 that would not apply to you since you're not a tourist
21 operator?

22 A. That is true.

23 Q. So, therefore, since you're not a
24 tourist operator you're not required to get the
25 approval of any other land user for that ski trail

1 area; is that your position?

2 A. I think what we have to do is think
3 about the ski trail itself and how it evolved. It
4 evolved as a walking trail over Crown land, it
5 gradually became flagged, and then gradually developed
6 into a ski trail. It was not a preconceived event that
7 we were going to build a ski trail.

8 Q. And as a result you never applied for
9 a permit?

10 A. That's correct.

11 Q. And as a result, you do not feel that
12 that section in fact applies to you; is that correct?

13 A. Yes, that's correct.

14 Q. All right. If that's the case then,
15 why does the next paragraph apply to you?

16 A. I think what we looked at with the
17 next paragraph was the spirit of using cross-country
18 ski trails in northern Ontario. Obviously we're not a
19 tourist organization, what we were looking at was the
20 philosophical use of the forest and that's why we
21 forward that passage.

22 Q. Let me understand something then,
23 sir, you're saying that the spirit of that second
24 paragraph applies to you and your situation?

25 A. That's the way we interpret it.

1 Q. I see. But the spirit of paragraph 1
2 does not apply to you; is that your evidence, sir?

3 A. I think in the true law --

4 Q. Oh, oh. No legal opinions, sir.

5 A. I'm sorry, let me take that back.

6 Q. Your counsel just didn't want a legal
7 opinion, I don't want one now either. I want to know
8 whether or not the spirit of that first paragraph
9 applies to you or not.

10 A. I think in the sense that we are
11 users of the forest we would like to think that we are
12 able to ski over Crown land.

13 Q. Can you answer my question: Does the
14 spirit of that paragraph apply to you or not?

15 A. I would think, yes, I would think it
16 would.

17 Q. So let's move on.

18 I want to come back to Marceau Lake
19 itself, and I have given you a photograph which -- two
20 photographs which I'm going to pass out to the Board
21 and to the other parties and we are going to discuss
22 them.

23 MR. MARTEL: Is this from another --
24 these are new.

25 MR. CASSIDY: These are new photographs

1 which I'm more than prepared to prove in evidence, if
2 required.

3 MADAM CHAIR: Are these going to be an
4 exhibit?

5 MR. CASSIDY: Yes.

6 The first exhibit could be the photograph
7 marked No. 6 in the upper right-hand corner.

8 MADAM CHAIR: Do you want A and B, Mr.
9 Cassidy?

10 MR. CASSIDY: That would be an excellent
11 idea, Madam Chair.

12 MADAM CHAIR: All right. Exhibit 1473A
13 will be -- did you say you wanted No. 6 to be first?

14 MR. CASSIDY: Yes.

15 MADAM CHAIR: Will be -- and this is a
16 colour xerox?

17 MR. CASSIDY: This is a colour copy of a
18 photograph -- of two photographs of the Marceau Lake
19 shoreline.

20 MR. LINDGREN: And perhaps for the record
21 Mr. Cassidy can indicate who took them and when.

22 MR. CASSIDY: The photographs were taken
23 on October 10th -- the photographs taken on October
24 10th, 1990 by a person named Mr. Tom McLean.

25 MADAM CHAIR: And photograph No. 5 will

1 be Exhibit No. 1473B.

2 MR. CASSIDY: Thank you, Madam Chair, the
3 same date and photographer.

4 ---EXHIBIT NO. 1473A: Colour copy of photograph No. 6
5 depicting Marceau Lake shoreline,
6 taken October 10, 1990 by Tom
McLean, entered on behalf of
OFIA/OLMA.

7 ---EXHIBIT NO. 1473B: Colour copy of photograph No. 5
8 depicting Marceau Lake shoreline,
9 taken October 10, 1990 by Tom
McLean, entered on behalf of
OFIA/OLMA.

10 MR. CASSIDY: Q. Do you have your
11 constitution in front of you, Mr. Tunnickliffe?

12 A. I do.

13 MR. CASSIDY: That's Exhibit 1467 Madam
14 Chair and Mr. Martel, if you could dig that up in your
15 file.

16 Q. And I would like to refer you to
17 Article 2.2 which is on the third page of this exhibit,
18 that is Exhibit 1467, your constitution.

19 You'll notice, for the record, that the
20 constitution was adopted May 8th 1990; is that correct,
21 Mr. Tunnickliffe?

22 A. That's right.

23 Q. And you've been the president since
24 May 8th, 1990 to date?

25 A. Yes.

1 Q. In fact I think you indicated you
2 have been the president since inception; is that
3 correct?

4 A. That's right.

5 Q. And if I could refer to Clause 2.2,
6 the Protection from Pollution and the Degradation of
7 the Natural Condition of the Lake and its Surrounding,
8 and Article 3:

9 "The MLCA will be...", it's on the same
10 page, Madam Chair,

11 "...will be specifically concerned with
12 any development that might adversely
13 affect the waters of Marceau Lake or the
14 boundaries of the lake within 500 metres
15 of the shoreline."

16 I want to refer you first to Exhibit
17 1473A, Mr. Tunnickliffe, and I am informed that that is
18 a photograph of a portion of what I'll call the
19 undisturbed shoreline of Marceau Lake.

20 And then I would refer you to Exhibit
21 1473B which is, I'm informed, a man-made beach on a
22 lot, a cottage lot on Marceau Lake. Can you confirm
23 for me that that beach is man-made and is not natural?

24 A. I believe so.

25 Q. You believe it's man-made?

1 A. Mm-hmm.

2 Q. Yes or no?

3 A. Yes.

4 Q. And, Mr. Tunnickliffe, have you taken
5 any efforts as president of the association in your
6 time to ensure that there has been any rehabilitation
7 of the shoreline existing in Exhibit 1473B back to its
8 natural condition or to mitigate it in respect of its
9 natural condition? Do you misunderstand the question?

10 A. Yes, but let me just say this. I
11 really don't think it was ever in the cards that we
12 would not disturb the shoreline; we have to build
13 docks, we have to build paths.

14 In this case somebody has brought sand in
15 and made a lake. Now, to me that is an improvement and
16 it's not degradation.

17 Q. So you don't consider the deposit of
18 soil and sand onto the shoreline as a form of
19 degradation?

20 A. Not from the point of a cottager.
21 The beach before that was black, decayed organic
22 material and if you went for a swim there you came out
23 all black. It was at the end of the lake where all the
24 organic debris washed down, that's where it ends up.

25 Q. So in your view the natural condition

1 was undesirable and that is why that beach was built?

2 A. No, I would have to speak for the
3 cottager. I can't speak truly for him, but in my
4 opinion he has -- his thought that he has improved his
5 cottage lot by having a sand beach instead of a black
6 mess out there.

7 Q. For swimming?

8 A. Exactly.

9 Q. Right. And in terms of the natural
10 environment, sir, is it your evidence that that does
11 not constitute a degradation of the natural
12 environment?

13 A. No, I can't see it degrading the
14 environment at all. It's clean sand. As far as I know
15 there's nothing in the sand that's going to affect the
16 water.

17 Q. Did you do any soil test to determine
18 that, or are you just giving this evidence now without
19 the benefit of any testing?

20 A. I'm giving you the benefit of my
21 opinion.

22 Q. I understand that, sir, and I'm
23 delighted, but can you tell me whether or not you did
24 any testing to support that opinion?

25 A. I would be delighted to say no, I

1 haven't.

2 Q. All right. And in fact you have not
3 taken any steps in regard to this man-made beach at
4 all; have you, as president of the association?

5 A. Because it is an improvement from the
6 cottager's point of view.

7 Q. I see. And in fact you could care
8 less about this man-made beach; is that correct?

9 A. It certainly is an improvement over
10 the black organic material that came out with you after
11 you swim. I have swum on that beach.

12 Q. I would say then, is it fair to say
13 that with respect to this development depicted in
14 Exhibit 1473A and B, that you're focusing on Clause 2.1
15 of your constitution which is the promotion of health,
16 pleasure and general welfare of the cottage members?

17 A. I would think that falls within
18 Article 2.1, yes.

19 Q. And in respect of determining whether
20 it falls within Clause 2.2 or 3.1, you have done no
21 test to determine that; have you?

22 A. That's true.

23 Q. Thank you.

24 MR. CASSIDY: Now, I would like to move
25 on to -- or go back to the Appendix Z, Madam Chair, in

1 the source book which is the letter dated June 25th,
2 1990 from Quebec and Ontario.

3 Q. And do you have that again, Mr.
4 Tunnickliffe?

5 A. Appendix Z. Yes, I do.

6 Q. It's the letter dated September 25th,
7 1990, and I'd like to refer you again to the same pages
8 that your counsel Mr. Lindgren did, pages 5 and 6 of
9 that exhibit again, and I think your counsel was
10 referring you specifically on page 6, Mr. Tunnickliffe,
11 to, among other parts, paragraph 6 where there is the
12 opportunity for input.

13 And I recall, in fact I've made what I
14 think is a verbatim note of what you said this morning
15 in respect of that input, that it does not provide any
16 guarantee that what we suggest is going to be followed.
17 Do you recall saying that this morning?

18 A. Yes, I do.

19 Q. And can I take it from that, sir,
20 then that you are only prepared to give input when you
21 are given a guarantee that your input is in fact what
22 is going to happen?

23 A. Can you restate the question, please?

24 Q. Am I correct, sir, that it is your
25 evidence that you are only prepared to give input into

1 a proposal or a process when you have a guarantee - and
2 I'm using your word - that your input will be followed;
3 that is, that what you say will in fact be done. Is
4 that your position?

5 A. No, no, that's not my position.

6 Q. Then what is your position?

7 A. I would think we could advise in many
8 different ways--

9 Q. Yes.

10 A. --to have things happen, and we would
11 be pleased to do that, but if we're talking about -- if
12 we're talking about negotiating here and we're
13 suggesting that 500 metres should be a reserve around a
14 lake and you're suggesting 500 -- it should be cut
15 within the 500-metre zone, then what I would like to
16 think is that if we do make input that it would be
17 taken, it would be taken and followed up on. And I
18 don't have a guarantee of that from No. 6.

19 Q. And you're in fact looking for that
20 guarantee that what you say is going happen or should
21 happen will happen; is that what you're looking for?

22 A. Because in our assumption right now
23 we are going to have a timber reserve that extends 500
24 metres away from the lake.

25 Q. Are you looking for that guarantee,

1 sir?

2 A. Guarantee for 500 metres?

3 Q. Before you enter into any situation
4 where you would give input?

5 A. If I could suggest, if we talked
6 about within one kilometre of the lake, we would be
7 quite willing to talk about input between one kilometre
8 and 500 metres, we wouldn't have any difficulties.

9 But right now we're suggesting that 500
10 metres should be reserved from the lake, and in that
11 sense we are suggesting that that should be left alone.

12 So when you start talking about cutting
13 within the 500 metres, I think you're becoming
14 hypothetical and, as a consequence, I don't think I can
15 really answer that.

16 Q. Well, I'm hypothetical; am I, because
17 you are not prepared to agree to any situation where
18 there would be any harvesting whatsoever within 500
19 metres of the lake; is that your position?

20 A. That is our position at this time.

21 Q. And, therefore, you're not prepared
22 to involve yourself in any situation where you would
23 give input into the harvesting in that situation; is
24 that correct?

25 A. Well, we have talked about selective

1 cutting within the 500 metres and that's something
2 we've talked about, but at our last general association
3 meeting it was stated that what we were demanding at
4 this point in time was a 500-metre reserve around the
5 lake, and that's where I'm going from.

6 Q. Let's recap then. Unless you have a
7 guarantee of that, you don't want to give input?

8 A. I'm not sure why I would give input
9 because in the sense that we're asking for that to be a
10 reserve.

11 Q. Right.

12 A. And how can you put input into a
13 reserve when it's not going to be cut, that's our
14 position.

15 Q. It's either cut or don't cut, in your
16 view; is that right? It's cut and dried, so to speak.

17 A. No, as I said before, selective
18 cutting is quite appealing to us.

19 Q. Mm-hmm. All right. Am I -- to try
20 to get to the bottom of all this, in any input
21 situation that you might have, you're not looking for a
22 guarantee that what you want as a fundamental term and
23 condition will be followed? You're not looking for
24 that type of guarantee; are you?

25 A. Well, I'm having difficulty answering

1 that. If I could think of -- if I could relate it to
2 something else. If I wanted to have input into what
3 happens on my street in South Porcupine, I would like
4 to think I could have input into that, but I don't have
5 any guarantee it's going to take place.

6 Q. I see.

7 A. But when we're talking about
8 negotiating a 500-metre reserve around the lake, I'm
9 assuming because I'm negotiating that that I'm going to
10 get that at this point in time and, as a consequence, I
11 don't know why I would ask for -- why I would give you
12 input that couldn't be guaranteed.

13 Q. So we're now looking at a situation
14 where you're not looking for a guarantee of no
15 harvesting, you are prepared to deal with selective
16 harvesting within the 500-metre reserve that you have
17 in mind; is that your position?

18 A. That's our position, yes.

19 Q. Now, the August, 1987 open house
20 occurred on August 7th, 1987, according to an answer in
21 your interrogatories, and you also indicated that, in
22 an answer to your interrogatories, that you did not
23 form the association until August 19th, 1997.

24 . And I'm just making a simple question
25 here. It stands to reason that you could not have

1 represented the association at the August 7th, 1987
2 meeting because it did not exist at that time; is that
3 correct?

4 A. That's correct.

5 Q. And I also wanted to clarify that you
6 in fact bought the property in 1984?

7 A. I believe that's correct.

8 Q. That is your property, you indicated
9 that in an answer to an interrogatory?

10 A. Yes, I did.

11 Q. I'm trying to be fair to you.

12 A. I don't have that information here to
13 confirm confirm it, but I would tend to agree.

14 Q. And the paragraph 7 of your witness
15 statement --

16 MR. CASSIDY: Madam Chair, could you do
17 me the favour of telling me what the exhibit number is
18 for Panel 2 so that I might refer to it.

19 MADAM CHAIR: Exhibit 1433A.

20 MR. CASSIDY: Thank you.

21 Q. Your witness statement in Exhibit
22 1433A states in paragraph 7, which is on page 3, that:

23 "In 1984 the QOPC first proposed to
24 undertake harvesting operations and/or
25 other timber management activities in

1 areas immediately to the east and west of
2 Marceau Lake."

3 And I think you then indicate in
4 paragraph 8 that it was upon learning of that that you
5 wrote to Mr. Papineau, which is in paragraph 8.

6 A. That's true.

7 Q. I'mn informed, sir, that in fact in
8 the timber management plan or what was known as the
9 management plan for the years 1971-1991, which was
10 written in the years 1975 through 1977, and in fact
11 approved in 1980, that the stand where the ski trail
12 is, stand 56, was in fact allocated for harvest in that
13 plan; are you aware of that?

14 A. No, I am not.

15 Q. So you are not in a position to
16 disagree with me?

17 A. No.

18 Q. Did you at any time between 1980 and
19 1984, prior to your purchase of the property; that is,
20 your lot 20, did you at any time instruct your
21 solicitor on the purchase of that property to make any
22 inquiries of the Ministry of Natural Resources with
23 respect to the future land use in the areas surrounding
24 your cottage?

25 A. No.

1 Q. And did you, sir, refer to the
2 district land use guidelines which you've appended as
3 Exhibit K -- I'm sorry, Appendix K in your source book
4 before -- did you refer to those before you purchased
5 the property?

6 A. I cannot recall.

7 Q. All right. Well, let's look at it
8 then.

9 MR. CASSIDY: It's Appendix K which is in
10 the source book. I keep referring to it as source
11 book. Could you do me the favour and give me the
12 exhibit number for the source book, Madam Chair.

13 MADAM CHAIR: 1434, Exhibit 1434.

14 MR. CASSIDY: Thank you.

15 Q. The Appendix K is the 1983 land use
16 guidelines; correct?

17 A. Correct.

18 Q. And that was referred to in your
19 evidence when you described the primary use in the,
20 what I will say, the Marceau Lake area, you read that
21 off for the Board and that is under paragraph (b) under
22 Land Use Intent; is that what you read to the Board?

23 A. Yes, I did.

24 Q. You did the not, however, read the
25 portion under section under (c) Land Use Activity for

1 the Marceau Lake Area dealing with forestry. You
2 agree you did not read that to the Board earlier in
3 your evidence?

4 A. That's true.

5 Q. And is there any reason why you
6 didn't?

7 A. There's no reason why I didn't, no.

8 Q. All right. Let's look at that
9 section dealing with forestry. Would you agree with me
10 that this section states that forest harvesting is
11 anticipated in Bartlett Township where Marceau Lake is
12 located?

13 A. Yes.

14 Q. So that is, in 1983 if you had chosen
15 to - and you indicated to me that you can't recall -
16 but if you had chosen to, you could have found out
17 prior to purchasing the property that in fact
18 harvesting was anticipated in your area pursuant to
19 these guidelines, you could have found that out by
20 reading this; couldn't you?

21 A. Certainly I could, and I think when I
22 read it now I see primary land use will be a
23 combination of Crown land recreation, cottaging and
24 commercial. That to me is the prime use. Certainly I
25 would very surprised if there wasn't forestry

1 operations going on MacArthurin and Bartlett Township,
2 okay.

3 Q. And you're not in the habit of only
4 reading part of a document; are you?

5 A. I am not in the habit of reading a
6 part of a document, no, I like to read the whole thing
7 but I like to pick out the key points and to me it
8 stands out very clearly what the primary use is.

9 Q. It's pretty clear language that
10 forest harvesting is going to be done or anticipated to
11 be done in your township. That's a pretty key part of
12 the document; don't you agree, Mr. Tunnicliffe?

13 A. Certainly it is, but it doesn't
14 appear to be the primary use of the lands.

15 Q. Oh, I understand that, sir, but why
16 didn't you bring that key part of the document to the
17 Board's attention when you read it to them this
18 morning?

19 A. You use the word key. To me the key
20 is primary use.

21 Q. You used the word, sir, you agreed
22 with the word key and I'm asking you why you didn't
23 bring that to the Board's attention this morning?

24 A. To me the key is the primary use and
25 I read it the way I saw it, the primary use.

1 Q. Mr. Tunnickliffe --

2 A. Can I just follow up by saying, every
3 township in northern Ontario is subjected to lumbering
4 operations.

5 Q. So it didn't surprise you that in
6 fact there was going to be harvesting around Marceau
7 Lake--

8 A. No.

9 Q. --when you bought that property?

10 A. No, I could see evidence of it.

11 Q. And in fact that section goes on to
12 state that:

13 "Modified forest management techniques
14 may be utilized within 120 metres of all
15 recognized canoe routes and cottage
16 lakes...", that's within the 120-metre
17 shoreline reserve; agreed?

18 A. I'm not sure what modified forest
19 management techniques means, I would assume that
20 there's a 120-metre reserve. Modified, I'm not sure
21 what that means.

22 Q. Did you at any time consult with a
23 forester to find out what that meant or did you at any
24 time phone the Ministry of Natural Resources to find
25 out what that term meant?

1 A. I think in all my dealings with the
2 Ministry of Natural Resources we assumed a 120-metre
3 reserve.

4 Q. I see. Is it your evidence then that
5 you did not follow up on what that section meant?

6 A. That's true.

7 Q. I see. You just made an assumption.

8 A. I don't even think I made an
9 assumption.

10 Q. You just told me you did, sir.

11 A. I don't think I did.

12 Q. The transcript will show. Mr.
13 Tunnickliffe, is it your evidence that faced with this
14 statement on the very same page in the 1983 land use
15 guidelines that you were somehow misled into believing
16 that harvesting would not occur around your lake?

17 A. My honest opinion of what I thought
18 at that time was that it would not occur within 120
19 metres of the lake.

20 Q. I see. Now, let's go to the evidence
21 you gave in respect of the allocations, and I'm quoting
22 you from yesterday in which you said that after
23 extensive argument, MNR and Quebec and Ontario
24 officials agreed to not harvest right up to the
25 property line of your lot.

1 Do you recall using that word; 'extensive
2 argument'?

3 A. I don't recall, no.

4 Q. All right. Well, I believe the
5 transcript will show that you did, sir. Would it
6 surprise you to know that in fact representatives of
7 Quebec and Ontario Paper do not recall any extensive
8 arguments whatsoever, that in fact they quite readily
9 agreed to that proposal once raised with them?

10 A. I can't comment on that, I don't
11 know.

12 Q. I see. So you're not in a position
13 to disagree with them if they felt that?

14 A. I can't disagree.

15 Q. Would you be surprised if I told you
16 that officials from Quebec and Ontario Paper feel
17 exactly the way you do and, that is, that the MNR is in
18 fact always siding with the other side; that is, in
19 their case, your association. Would you be surprised
20 if I told you that?

21 A. Very much so.

22 Q. I see. Now, you indicated yesterday
23 that most of stand 56 was cut. Do you recall saying
24 that?

25 A. My understanding is stand 56 was cut

1 up to the 500-metre mark.

2 Q. You gave the evidence yesterday, sir,
3 that most of it was cut. Do you recall saying that?

4 A. I don't recall saying most of it. My
5 understanding is that there was a large part of area 56
6 cut up, and I can show it on a map if you like, it is a
7 large section of that stand.

8 Q. Are you in a position to disagree
9 with me, sir, if I tell you that was 14 -- I'm sorry,
10 12 acres of 53 acres cut was in stand 56?

11 A. I could be corrected if that's the
12 case.

13 Q. So you would not be in a position to
14 disagree with me that only 12 acres of stand -- out of
15 a total of 56 acres in stand 56 was cut?

16 A. I couldn't disagree with you.

17 Q. All right. Well, would you agree
18 with me that 12 out of 56 is far less than a great
19 amount or a lot or most, whatever words you might have
20 happened to use?

21 A. I would agree with that.

22 Q. Now, you indicated that in the
23 meeting -- I'm sorry, you indicated that when we asked
24 you an interrogatory, Mr. Tunnickliffe, about when the
25 Quebec and Ontario proposal dated June 25th, 1990 was

1 put to the Marceau Lake Cottagers Association, you
2 indicated that that was put to them in an answer to an
3 interrogatory on August 21st, 1990, and that is in fact
4 an interrogatory which your counsel filed in Exhibit
5 1465. And if we could flip to that.

6 MR. LINDGREN: Question?

7 MR. CASSIDY: I'm getting there, Mr.
8 Lindgren.

9 Q. It's question No. 9 from the
10 OFIA/OLMA, and you attached in fact the minutes of that
11 meeting to that interrogatory answer. Do you have
12 that, Mr. Tunnickliffe?

13 A. Yes, I do.

14 Q. Now, that interests me because you
15 purported to reply to the proposal by Quebec and
16 Ontario Paper by your letter dated July 10th, 1990,
17 which has been filed as Appendix BB which you in fact
18 referred to in your evidence.

19 Is it your evidence now that in fact you
20 sent that letter dated July 10th, 1990 without first
21 consulting the members of the association?

22 A. Now, do I have this correct, Appendix
23 BB is a letter to Quebec and Ontario Paper, attention
24 Laing Bennett, and this was the response that was made
25 to the Quebec and Ontario proposal?

1 Q. Yes.

2 A. I presented that at a meeting with
3 the Ministry of Natural Resources and Quebec and
4 Ontario Paper, and this was discussed with my executive
5 and as an executive we came up with an answer to this.

6 Q. That discussion with the executive,
7 sir, did that discussion ever end up in minutes?

8 A. No.

9 Q. So that in fact your answer to the
10 interrogatory refers to - and I'm referring to
11 Interrogatory No. 9 - refers to it being discussed in
12 the August 21st meeting and minutes were produced, but
13 you had in fact discussed that, according to your
14 evidence here now, at an earlier executive meeting; is
15 that correct?

16 A. That's true.

17 Q. Is there any reason why you didn't
18 indicate that in the answer to the undertakings, is it
19 just simply because I didn't ask for minutes?

20 A. I think what you asked for was a copy
21 of minutes to any meetings of the association or its
22 executive where the Quebec and Ontario Paper Company
23 proposal was discussed.

24 Q. So you didn't see fit to advise us in
25 the answer to the interrogatories simply because --

1 A. There were no minutes, but the
2 minutes that we did have was a general meeting of the
3 whole association.

4 Q. But you didn't think it necessary to
5 advise us that there in fact had been an earlier
6 executive meeting which lead to the letter dated July
7 10th, you didn't see fit to advise us of that; did you?

8 A. There were no minutes associated with
9 that.

10 Q. Well, let's move to those minutes
11 then. There are 25 cottages; is that correct?

12 A. That's right.

13 Q. Are there 25 members of the Marceau
14 Lake Cottagers Association?

15 A. There are 25 cottages. By definition
16 a member has to be a paid-up member and we have about
17 five members who have never paid dues, so in essence we
18 are talking about 20 cottagers as part of the -- now,
19 everybody receives mailings that go out, but some
20 people have taken it upon themselves not to join.

21 Q. So there would be 20 people of the 25
22 the cottagers who could in fact vote?

23 A. Right.

24 Q. And there were only 11 people at the
25 meeting on October -- I'm sorry, on August 21st; is

1 that correct?

2 A. No, there would be more than -- I
3 don't have the list.

4 Q. I mean voting people.

5 A. I don't have the list, but there were
6 11 lots represented.

7 Q. 11 votes?

8 A. Right.

9 Q. And 9 voted against what appears to
10 be the MNR proposal stated in the minutes?

11 A. That's right.

12 Q. So less than half of the 20 voted
13 against it; is that correct?

14 A. That's true.

15 Q. The minutes of the meeting that you
16 had with Mr. Bennett --

17 A. I'm sorry, can I go back. I think
18 it's 11, it's 9 and 2.

19 Q. Right.

20 A. Would be 11 voted against it, so it
21 would be more than 50 per cent.

22 Q. No, no. I'm sorry?

23 A. You were talking about the proposal,
24 the vote that was taken to keep the proposal as is, it
25 was rejected by everybody.

1 Q. Yes.

2 A. All 11 lots.

3 Q. Yes.

4 A. Okay.

5 Q. I'm sorry, what do you mean to keep
6 the proposal as is?

7 A. The proposal that was offered by the
8 MNR.

9 Q. And to modify the proposal is to
10 accept MNR's proposal?

11 A. No, the proposal as it stood was
12 completely rejected. To modify the proposal as in the
13 map, in the map that I used on that particular night,
14 there were a couple of little triangles at either end
15 that would extend it slightly and that was the
16 modification.

17 What that was doing was actually asking
18 for a little bit more than what the MNR had proposed,
19 two little triangles at either end.

20 Q. Oh, I see, the modification is of
21 your proposal?

22 A. That was our modification. There was
23 another proposal that we asked for 500 metres on the
24 east side of the lake and 300 metres on the west.

25 Q. Whose proposal was that?

1 A. That was one that came up during the
2 meeting as a compromise.

3 Q. I see. So 9 of the 11 voted to keep
4 the original position, and 2 supported a modification
5 of your original position?

6 A. Exactly.

7 Q. I see. So is it fair to say that 9
8 of the 20 -- I'm sorry, 9 of the 11 voted to maintain
9 your position and reject any other positions?

10 A. That's not necessarily my position,
11 but to keep the 500.

12 Q. When I say your, sir, I mean the --
13 I'm using the royal your, the cottage association.

14 A. To keep the 500-metre reserve, 9 out
15 of 11 voted in favour of doing it.

16 Q. I see. As a result then it's less
17 than a majority of the 20; is it not?

18 A. In the sense that there was only 9
19 who expressed an opinion, yes.

20 Q. Mm-hmm. Were there any proxy votes?

21 A. No.

22 MR. CASSIDY: Mr. Lindgren, hang in
23 there.

24 Q. And there are, by my calculations
25 then, some 14 cottagers who were not represented at

1 that meeting, either because they're not paid up or
2 they did not attend?

3 A. Correct.

4 Q. All right. Now, I want to recap the
5 meeting -- I'm sorry. The original allocation and
6 reserve, Mr. Tunnickliffe, called for a 120-metre
7 modified reserve around the lake, modified harvesting
8 reserve around the lake; that is what you started out
9 with from day one in essence; is that correct?

10 A. That's correct.

11 Q. And that left a potential harvested
12 area between that line, the 120-metre line and the
13 Papakomeka Road north of -- or I'm sorry, east of your
14 cottage lines as well?

15 A. That's right.

16 Q. And that, I'm advised, was somewhere
17 around 40 to 60 metres of forested area between your
18 lot line and the Papakomeka Road; are you aware of
19 that?

20 A. Yes.

21 Q. Okay. So we've got 120 starting. As
22 I understand it the next proposal in this situation was
23 that that area between your lot line and the road would
24 not be harvested, so we had an additional 40 to 60
25 hectares which MNR and the company agreed not to

1 harvest; is that correct?

2 A. I'm not sure how many hectares there
3 are but, yes, it went to the road.

4 Q. I'm sorry, I meant metres. And then
5 through further negotiation there was a discussion
6 about not harvesting a further 60 metres on the other
7 side of the Papakomeka Road?

8 A. That's true.

9 Q. And so everybody is moving further
10 east if you will; is that correct, Mr. Tunnicliffe?

11 A. Yes, that's right, and that happened
12 in 1987.

13 Q. And the road in fact itself would be
14 what, about 10 metres wide?

15 A. I would think so, approximately.

16 Q. All right. So in your understanding
17 in fact there has been movement by both MNR and Quebec
18 and Ontario from the original 120 through to another 40
19 to 60 back of your lot, and then another 60 metres on
20 the other side of the road; is that fair?

21 A. Fair.

22 MR. CASSIDY: Now, if I could just have a
23 minute, Madam Chair.

24 Q. Now, I just want to finish off on
25 that last point, Mr. Tunnicliffe. We have got - and

1 you may have to help me here with the math, so get your
2 pen ready - we have 120 metres as the initial reserve,
3 and is it understood, at least to your mind now, that
4 that 120 metres is on the basis of no harvesting
5 whatsoever within the 120 metres?

6 A. Well, you pointed out the modified
7 and I'm not a hundred per cent sure about that.

8 Q. Okay. But it's your understanding
9 that there has been some sort of agreement or there's
10 been a proposal not to do any harvesting within that
11 120 metres; am I correct?

12 A. I would like to think so, yes.

13 Q. Okay. And then we've got the 40 to
14 60 metres beyond that 120 to get you out to the
15 Papakomeka Road behind your lot line?

16 A. Well, I questioned that, looking at
17 the Natural Resources map I'm not sure whether it's 40
18 to 60, or whether it would be more like 10 to 30, the
19 120-metre line does come very close to the road in a
20 couple of places here.

21 Q. Yes. I'm talking about your lot line
22 though, I'm trying to give you --

23 A. Okay. I prefer to talk about the
24 association, but go ahead.

25 Q. Well, do you know every single lot

1 line then in the association?

2 A. No, I don't.

3 Q. That's why I'm focussing on yours,
4 sir.

5 A. Okay.

6 Q. And would you agree with me that it's
7 approximately 40 to 60 metres from your lot line to the
8 Papakomeka Road?

9 A. My feeling is it would be less than
10 that, but...

11 Q. All right. Let's --

12 A. Let's take the 30.

13 Q. Okay. So we've got 170 -- sorry,
14 150.

15 A. Mm-hmm.

16 Q. And then we've got a 10-metre wide
17 road is 160?

18 A. Okay.

19 Q. And then we have a 60-metre reserve
20 from the edge of the road on the east side to the
21 clearcut?

22 A. Okay.

23 Q. So we have 210 metres?

24 A. Okay.

25 Q. Would you agree with me, sir, that

1 that's almost double what the original prescription was
2 as stated in those land use guidelines?

3 A. Yes, but I would also say it was the
4 Ministry of Natural Resources that pushed to increase
5 that distance back 120 metres, I do not think it was
6 the lumber company that volunteered that. From the
7 first meeting in 1987, I believe it was MNR that pushed
8 that back and not the lumber company.

9 Q. Well, whatever, whoever brought it
10 up, sir, are we agreed that that is in fact the latest
11 position?

12 A. It is.

13 Q. And in fact through the negotiation
14 process that is what we have gotten to so far?

15 A. I don't know where I am with the
16 negotiation process now. I could have nothing.

17 Q. Do your best.

18 A. I'm trying.

19 Q. Good. Now, is that true, what I just
20 said, that we're now at 210 metres?

21 A. I would like to hope so.

22 Q. And that that is in fact almost
23 double the original 120? .

24 A. Almost.

25 MR. CASSIDY: Thank you. Those are my

1 questions, Madam Chair.

2 MADAM CHAIR: Thank you, Mr. Cassidy.

3 Mr. Cassidy, does the Board have before it any evidence
4 on the volume of timber that is in either the 120-metre
5 reserve around Marceau Lake or the 500 -- or a
6 hypothetical 500-metre reserve. I don't think we do.

7 MR. CASSIDY: Without doing a quick scan
8 of 46,000 pages of transcript in my mind, I would --

9 MADAM CHAIR: Could the Board leave that
10 with you to--

11 MR. CASSIDY: I would be delighted.

12 MADAM CHAIR: --see if we have any, and
13 you might want to check with Ms. Blastorah to see if we
14 have that information and, if not, the Board would
15 simply like to say that at some point we want that
16 information, whether it comes in through reply from the
17 Ministry or...

18 MS. BLASTORAH: Mrs. Koven, perhaps I
19 could just clarify, because I assume you're asking in
20 relation to this particular lake.

21 MADAM CHAIR: Yes, Marceau Lake.

22 MS. BLASTORAH: And again, I would think
23 it would make some difference what the yields are off
24 - that particular area, so the volume might be different
25 depending on the yields.

1 MR. LINDGREN: Madam Chair?

2 MADAM CHAIR: Mr. Lindgren?

3 MR. LINDGREN: It might be perhaps
4 simpler to ask for an indication of the number of
5 hectares between the 220 and the 500 metres because of
6 the problem associated with calculating volume, and
7 perhaps we can get an indication of the area that we're
8 talking about.

9 MADAM CHAIR: Well, obviously what
10 interests the Board is how much potentially
11 merchantable timber is being tied up by a reserve, and
12 is there a large difference between the 120-metre
13 reserve and the 500-metre reserve, and perhaps you
14 could go away and think about how you would answer that
15 for the Board, that's our interest; it's not how many
16 hectares.

17 And I agree with you, calculating timber
18 volume is very difficult, but obviously we have a
19 company whose very concerned about the size of the
20 reserve, their only concern can be that they're losing
21 merchantable timber, and we want to know if it's
22 significant.

23 MR. CASSIDY: Well, there may be evidence
24 to suggest that there are other concerns than simply
25 losing merchantable timber, Madam Chair, and in fact

1 the exhibit which was entered this morning refers to
2 that, which I entered.

3 MADAM CHAIR: Which exhibit?

4 MR. CASSIDY: I'm sorry, the letter dated
5 September 5th, 1990 Exhibit 1472.

6 But to answer your question directly --
7 well, to answer your question indirectly, Ms. Blastorah
8 and I will go off and think about it, if she's
9 agreeable and to come up with a figure which we think
10 would be beneficial to you.

11 MADAM CHAIR: Thank you, Mr. Cassidy.

12 MR. CASSIDY: And might be what you're
13 looking for.

14 MADAM CHAIR: Mr. Cassidy, the sentence
15 you refer with respect to concerns other than timber,
16 merchantable timber, is the second sentence in the
17 second paragraph?

18 "We feel that there exists a potential of
19 serious adverse environmental impacts
20 that could result if a large no-cut
21 reserve is established."

22 MR. CASSIDY: If I could just have a
23 minute. Yes.

24 MADAM CHAIR: All right.

25 MR. LINDGREN: Madam Chair, if I could

1 just be clear on the nature of the undertaking. Are
2 they trying to calculate the volume between the
3 original 120 or the 220 that has been agreed to?

4 MADAM CHAIR: I didn't ask anything about
5 the 220. What the Board wants to know is how much
6 timber is being tied up by a reserve around Marceau
7 Lake and if that reserve is that first calculation of
8 120 metres, and then the maximum size that has been
9 proposed by the cottagers, and correct me, Mr.

10 Tunnickliffe, is 500 metres?

11 THE WITNESS: Yes.

12 MADAM CHAIR: And we want to know what we
13 are looking at with respect to timber not being cut.

14 MR. LINDGREN: Yes, Madam Chair. The
15 reason why I raised it, because I understand from Mr.
16 Cassidy's cross-examination that there seems to be
17 agreement at least out to the 220-metre range.

18 MR. CASSIDY: I want to make that clear.
19 As Mr. Tunnickliffe himself indicated, and I can
20 sympathize and agree with him, I don't think there is
21 any agreement at the present time, we're waiting for
22 EAAC to deal with this matter.

23 Is that your position, Mr. Tunnickliffe?

24 THE WITNESS: Yeah, that's my position.

25 MR. CASSIDY: I mean, nothing's cast in

1 stone now.

2 THE WITNESS: I don't know. I've had
3 nothing agreed to.

4 MR. CASSIDY: Exactly. So I think we
5 should be careful about the question of agreement. I
6 think what we were doing, the purpose of my
7 cross-examination was to show you how far the parties
8 got at some point, but I would not want to state on
9 behalf of Quebec and Ontario Paper that they agree to
10 anything when the whole process is up in a ball -- in
11 the air. Right, Mr. Tunnickliffe?

12 THE WITNESS: I would agree.

13 MADAM CHAIR: All right. Well, the Board
14 has this interest in knowing--

15 MR. CASSIDY: Yes.

16 MADAM CHAIR: --what amount of, however
17 it can be calculated, of merchantable timber is at
18 issue in this matter.

19 MR. MARTEL: MNR must have some idea
20 because there used to be a donut around all lakes, so
21 in fact they must have done some calculation on the
22 volume of timber that was being lost over the years,
23 because that eventually was changed.

24 MS. BLASTORAH: As I said, Mr. Martel,
25 I'm certainly going to cooperate with Mr. Cassidy and I

1 think we can come up with something that would be
2 helpful for the Board. My only concern was that, as
3 you know, the volume will vary from site to site, and
4 my question was if you're specifically interested in
5 this site, we will do our best, and actually that would
6 narrow it down in any event.

7 MADAM CHAIR: All right.

8 MS. SEABORN: I think there is evidence
9 on the record though about some ballpark figures, and I
10 understand that might be helpful to the Board.

11 MADAM CHAIR: On Marceau Lake?

12 MS. SEABORN: Not on Marceau Lake but on
13 that sort of species, that size of lake. I think there
14 is some evidence in the Industry, one of their panels
15 put forward, that talked about calculations of volumes.

16 MADAM CHAIR: And reserve sizes, yes.

17 MS. SEABORN: And that may be of some
18 assistance as well.

19 MR. CASSIDY: Thank you, Ms. Seaborn. I
20 understood your question be to in respect of Marceau
21 Lake specifically, but whatever other evidence we can
22 dig up, we will do our best.

23 MR. MARTEL: In fact, were the reserves
24 at one time not 500 metres in almost all -- the donut
25 that was around most lakes, what was the width of that

1 reserve?

2 MS. BLASTORAH: Mr. Martel, subject to
3 correction from the earlier evidence, I'm advised that
4 it was 400 feet.

5 MR. MARTEL: 400 feet.

6 MR. CASSIDY: That shows how long ago it
7 was.

8 MADAM CHAIR: Pre-metric.

9 MR. MARTEL: But there had to be a
10 calculation based on that volume of wood involved in
11 all of those reserves anyway, which could be applied to
12 here.

13 MADAM CHAIR: If we could have any
14 specific information on the loss of timber that the
15 company feels is -- loss of timber that is at issue, we
16 would appreciate seeing it.

17 MR. CASSIDY: Thank you.

18 MS. BLASTORAH: We'll do our best.

19 MADAM CHAIR: Do you want afternoon an
20 break now before we begin?

21 MS. BLASTORAH: It might be appropriate
22 because I have to switch places anyway, Madam Chair.

23 MADAM CHAIR: You expect to be how long?

24 MS. BLASTORAH: Actually, I expect to be
25 less time than I anticipated before and I think we can

1 anticipate finishing possibly by 4:30, maybe five.

2 MR. CASSIDY: Do you have any idea, Mr.
3 Lindgren, I'm just curious about how long his
4 re-examination is going to be.

5 MR. LINDGREN: I have one question.

6 MADAM CHAIR: All right. Thank you, Mr.
7 Lindgren. Well, certainly you will be finished
8 tonight, Mr. Tunnickliffe.

9 THE WITNESS: Thank you very much.

10 MS. BLASTORAH: I will do my best to keep
11 it short. I don't know whether Mr. Tunnickliffe has a
12 flight.

13 MADAM CHAIR: Do you have a plane
14 reservation, Mr. Tunnickliffe?

15 THE WITNESS: No.

16 ---Recess taken at 2:50 p.m.

17 ---On resuming at 3:10 p.m.

18 MADAM CHAIR: Please be seated.

19 MS. BLASTORAH: Oh, I'm sorry, I forgot
20 that Ms. Seaborn indicated that she might have a
21 question.

22 MADAM CHAIR: Ms. Seaborn, do you have a
23 question?

24 MS. SEABORN: I do actually have one
25 question.

1 MADAM CHAIR: Go ahead.

2 MS. BLASTORAH: Good thing I remembered.

3 CROSS-EXAMINATION BY MS. SEABORN:

4 Q. Mr. Tunnicliffe, your counsel Mr.
5 Lindgren showed you Exhibit 815 which was the pamphlet
6 on timber management planning.

7 A. Yes.

8 Q. And in that pamphlet he directed you
9 to a section in relation to bump-up. Now, would it be
10 fair to say that your dissatisfaction is not with the
11 bump-up process per se, but with the length of time it
12 has taken for the Minister to provide you with a
13 decision one way or the other?

14 A. Yes, I think the latter very much so.
15 I really appreciated the fact that there was an
16 opportunity for bump-up in this situation, so I'm very
17 much in favour of that, my concern is the length of
18 time.

19 MS. SEABORN: Thank you. Thank you,
20 Madam Chair, Ms. Blastorah.

21 CROSS-EXAMINATION BY MS. BLASTORAH:

22 Q. Mr. Tunnicliffe, I will do my best to
23 speak up. For some reason this microphone has grown
24 overnight, I don't recall it being this high yesterday.

25 I would just like to follow up very

1 briefly on Ms. Seaborn's question. You indicated that
2 you felt that you were very glad or you feel you are
3 very glad that the bump-up provision was there; did I
4 understand you correctly?

5 A. Yes, that's true.

6 Q. And if I could just refer you to
7 Appendix I of your source book. I would just like to
8 confirm that in this letter from Mr. Chevalier to you
9 he did indicate that two options were available to you
10 in addition to continuing discussions with the
11 Ministry, and those were basically that you might want
12 to consider becoming involved in this hearing, as you
13 have done, and that the Ministry would be glad to
14 assist you in any way they could in doing that, and
15 that's paragraph 4.

16 A. Yes.

17 Q. And also that -- it says in the last
18 line, if I could just refer the Board to that, it says:

19 "Both of these processes are open to the
20 citizens of Ontario and we will assist
21 your group upon request."

22 The second process being request for
23 designation, which would be bump-up?

24 A. Yes.

25 Q. So the Ministry was also pointing out

1 to you that those two options were available to you?

2 A. Yes.

3 Q. Thank you. And they offered to
4 assist you, if they could?

5 A. Right.

6 Q. Thank you. Now, I would just like to
7 turn very briefly to Exhibit 1473B which was one of the
8 photographs filed by Mr. Cassidy a few minutes ago.
9 It's this one, the one which shows the man-made beach?

10 A. Yes.

11 Q. And I have just a very brief question
12 on that. In response to Mr. Cassidy's questions on
13 that photograph you indicated that you consider this
14 beach an improvement and not a degradation; did I
15 understand you?

16 A. That's true.

17 Q. Okay, fair enough, that's your view.
18 Would you agree that other people who have different
19 interests than you might consider that something other
20 than improvement, in fact they might consider that a
21 degradation?

22 A. It would certainly depend on their
23 viewpoint.

24 Q. Exactly.

25 A. When I look at that, you can see the

1 black sludgy like material over -- now, how would I
2 describe this, I guess at the bottom, if you're holding
3 it with the number five, the black sludgy like lines
4 are what swimmers don't appreciate.

5 Q. Right, exactly.

6 A. And that was the point of doing that.

7 Q. So someone who had a interest
8 different than swimmers might have a different view?

9 A. True.

10 Q. Okay, fair enough. Now, you have
11 indicated in your earlier evidence that, in your view,
12 clearcuts are a degradation and that is one of the
13 reasons that you don't want them, I think the term you
14 used was, in your backyard?

15 A. (nodding affirmatively)

16 Q. And that's fair enough too, that's
17 your view and you have your own reasons for doing that.
18 I would just like to ask you, would you agree that
19 other people, for instance a forester, interested in
20 silviculture might hold a different view of clearcuts?

21 A. Oh, no doubt about it.

22 Q. Now, next I'd ask you to turn to
23 paragraph 33 of your witness statement, and this is the
24 paragraph that deals with the cut in stand 56. And I
25 would just like to pick up on that briefly and clarify

1 one matter. It may already be clear from
2 evidence-in-chief, but you have indicated I think in
3 your direct evidence that there has not been any
4 harvest within the 500-metre area that you're proposing
5 should be a reserve around Marceau Lake?

6 A. I agree with that.

7 Q. And this cut within stand 56 then was
8 not within that 500-metre area?

9 A. I agree.

10 Q. Now, in paragraph 31 you indicate
11 that you did, in April, 1989, review the current annual
12 work schedule which would have been for the 1989
13 period?

14 A. That's right.

15 Q. And -- I'm sorry, that's right?

16 A. Yes.

17 Q. Okay. And I believe you did spend a
18 number of hours with Mr. Fleet discussing that and
19 going over some maps and so on; is that correct?

20 A. We did spend a considerable amount of
21 time, yes.

22 Q. Okay. So you were aware of the
23 proposals for the 1989 period, and that would have
24 included this cut?

25 A. That's right.

1 Q. And you indicated in fairness in your
2 evidence that you didn't realize that your ski trail
3 extended beyond the 500 metres and that was a mistake
4 on your part?

5 A. Yes, it was a very unfortunate
6 mistake.

7 Q. That's true, okay. Now, that is what
8 you said. And I just take it then from that comment
9 that where you say here in paragraph 33 that that cut
10 was carried out without specific notice to the
11 association, that may be just unfortunate wording and
12 what you really mean is that you didn't understand that
13 it would affect your ski trail.

14 A. Would I would like to say there is
15 that I would have appreciated hearing from somebody,
16 either the Quebec and Ontario Company or the Ministry
17 of Natural Resources, somebody, to the effect that:
18 Hey, your ski trail is going to be clearcut in the next
19 little while. I didn't appreciate going out there
20 March break and see it as an accomplished fact and that
21 bothered me considerably.

22 I know there are many initiatives today
23 to try and encourage physical exercise and I thought we
24 were doing something that should in fact be encouraged,
25 and maybe it's just common courtesy that I would expect

1 if a facility like that is going to be cut that
2 somebody tells us.

3 Q. And in fact they did advise you that
4 the cut was going to take place, you just didn't
5 understand the significance of it?

6 A. Unfortunately, yes.

7 MADAM CHAIR: Excuse me. And you were
8 advised of that during the annual work schedule--

9 THE WITNESS: That's right.

10 MADAM CHAIR: --when you viewed...

11 THE WITNESS: In the spring of the year,
12 that's right.

13 MS. BLASTORAH: Q. And that of course
14 was prior to the cut being carried out?

15 A. Yes.

16 Q. Thank you. Now, Mr. Cassidy spent
17 some time talking about the 1983 district land use
18 guidelines, so I won't back go back over that material.

19 I would like to just come back for a
20 minute, however, to the 1985 amendment to that
21 document, and I have a document that I would like to
22 file which is somewhat redundant with one of your
23 appendices, but it has a little more material from that
24 amendment, and if I could file that now. I've provided
25 a copy of that to your counsel this morning and a copy

1 for you as well. I think you have that, and I think we
2 have also distributed it to the other counsel present.

3 Q. Actually, Mr. Tunnicliffe, I can't
4 recall whether your extract of the 1984 amendment was
5 one of your appendices, or did you provide that in
6 response to an interrogatory; do you recall?

7 A. I think that was an appendix, I think
8 it as Appendix AA.

9 MR. LINDGREN: Madam Chair, it's actually
10 attached to the interrogatory response Question No. 4
11 to OFAH.

12 MS. BLASTORAH: And I believe that was
13 filed by you, Mr. Lindgren?

14 MR. LINDGREN: That's correct, and that's
15 Exhibit 1465.

16 MS. BLASTORAH: Thank you.

17 MADAM CHAIR: Ms. Blastorah, do you want
18 this to be an exhibit?

19 MS. BLASTORAH: I think so because it is
20 different than what was provided in -- I believe it's
21 different than what was provided in the answer to the
22 interrogatory.

23 MADAM CHAIR: All right. That will be
24 Exhibit 1474, and could you describe it, please.

25 MS. BLASTORAH: This is an excerpt from _

1 the Timmins and Gogama District Land Use Guidelines,
2 Revision No. 84-003, Timmins and Revision No. 84-002,
3 Gogama. It contains 16 pages.

4 I'm sorry, I should have counted those
5 earlier and basically, just for the witness' reference,
6 this is the part that deals with the Timmins area not
7 the Gogama part.

8 ---EXHIBIT NO. 1474: 16-page excerpt from the Timmins
9 and Gogama District Land Use
10 Guidelines, Revision No. 84-003,
11 Timmins and Revision No. 84-002,
12 Gogama, containing Timmins part
13 only.

14 MS. BLASTORAH: Q. Now, you did provide
15 a portion of this in your material, Mr. Tunnickliffe,
16 and I would just like to turn to that now because there
17 was some discussion this morning of this amendment and
18 I think your statement at the time was that you felt
19 that when you learned of this amendment you felt that
20 it had weakened your position with regard to the
21 500-metre proposed reserve; is that your recollection?

22 A. That's true.

23 MADAM CHAIR: Excuse me, Ms. Blastorah,
24 what year was this revision?

25 MS. BLASTORAH: If you will turn to
the -- it's the signature page is included in this
package, it's numbered 5 at the top and you will see

1 that there's a note there with two asterisks which
2 indicates the revision becomes official as of this
3 date, which is given as the 19th of June, 1985.

4 Q. Now, when you examined this document
5 with Mr. Lindgren, your excerpts from this document
6 this morning, Mr. Tunnicliffe, I think you referred to
7 the land use intent in this document as the -- and that
8 reads:

9 "The primary use in this area will be a
10 combination of Crown land recreation,
11 cottaging and commercial tourism in
12 shoreline areas, while resource
13 extraction will have priority in.
14 non-shoreline areas."

15 And a number of questions arose resulting
16 from the fact of this amendment, if you will, and Mr.
17 Martel raised some questions particularly with regard
18 to the notice that had been given or why no notice had
19 been given.

20 Again, in fairness, I think you indicated
21 that your association was not in existence at the time
22 and that the Ministry would not necessarily have any
23 reason to know that they should be contacting you; is
24 that correct?

25 A. That's correct.

1 Q. Okay. Now, could I just ask you to
2 turn to the sixth page into this exhibit which is No.
3 1474.

4 A. Does that start, "During the past
5 several years...."?

6 Q. That's right. Have you reviewed this
7 portion of the amendment before?

8 A. Not recently.

9 Q. But you have read it in the past?

10 A. Yes.

11 Q. Well, okay. Since you haven't read
12 it recently, maybe we'll just go through it now. The
13 first sentence of that section.

14 MR. LINDGREN: Which page are we on, Ms.
15 Blastorah?

16 MS. BLASTORAH: It's not numbered
17 unfortunately, it's the sixth page into the package and
18 it begins, "During the past several years..."

19 MADAM CHAIR: It follows map 2.

20 MS. BLASTORAH: I follows Map 2.

21 MR. LINDGREN: Right.

22 MS. BLASTORAH: Thank you, Mrs. Koven.

23 Q. Now, this page of the document
24 indicates that:

25 "During the past several years...", and

1 I'm reading starting at the top of the page,

2 "During the past several years improved
3 road access has occurred in both the
4 Timmins and Gogama Districts."

5 And reading on in that paragraph it
6 follows:

7 "One of the areas that has been impacted
8 by the ongoing road proposals is the
9 Grassy River system as contained in areas
10 15 and 5 in the Timmins District Land Use
11 Guidelines and in areas 7, 8 and part of
12 area 4 in the Gogama District Land Use
13 Guidelines."

14 And then it refers you to map 1. You see
15 that?

16 A. Yes.

17 Q. Okay. And then in the third
18 paragraph, the statement is made that:

19 "This improved access has contributed to
20 a major increase in use in the area.

21 Since the possibility of improved road
22 access on this scale was not anticipated
23 in district planning, it became evident
24 that a re-evaluation of the planning
25 strategies for the Grassy area was

1 needed, most importantly the Grassy River
2 system and its future use had to be
3 Evaluated as a single unit."

4 And you see that?

5 A. I just have a question as to the
6 definition of the Grassy area.

7 Q. Okay. Perhaps we could turn to the
8 three pages over which is page 4, and that is a
9 reference to the Gogama District Land Use Guidelines.
10 Now, unfortunately, I don't have those here today but
11 it does indicate that area 4 in that district land use
12 guidelines is an area called the Gogama resource area
13 and area 7 is an area called the Grassy. Are you
14 familiar with that area, the Grassy river system?

15 A. I'm assuming the Grassy is the area
16 below the Muskosenda complex. Would I be right?

17 Q. Well, unfortunately I'm not
18 personally familiar with the area, so I'm relying on
19 what it says here.

20 A. See, the Grassy River system comes up
21 through Peter Long Lake and it's little different from
22 the Mountjoy River system that flows through Marceau.

23 Q. Well, maybe the simplest thing would
24 be to refer you back to the first paragraph at the top
25 of the page reading:

1 "During the past several years...", and
2 there it's basically defined for the purposes of this
3 document, the Grassy River system is defined as the
4 areas contained in area 15 and 5 in the Timmins
5 District Land Use Guideline - I have a copy of it here
6 if you would like to refer to it - and also area 7, 8
7 and part of area 4 in the Gogama District Land Use
8 Guidelines, and actually it says see map No. 1. Maybe
9 if you look at Map 1 that would help.

10 A. I'm familiar with that area, I have
11 travelled that area. If your point here is that the
12 road had been upgraded, there is no question that is
13 true.

14 Q. Okay. So you would agree with this
15 document then, that the roads have been upgraded then,
16 there is improved access?

17 A. Yes.

18 Q. What this document is indicating is
19 that that is a concern for planning purposes?

20 A. Okay.

21 Q. Sorry, you have to give an oral
22 answer so the reporter can take it down.

23 A. Yeah.

24 Q. Now, if you would refer to the next
25 page over -- Oh, I'm sorry, if you could just stay on

1 the same page for a moment. If you turn to the bottom
2 of the page under Land Use Designations, Item (b)?

3 A. Right.

4 Q. It says Timmins District, see Map 2?

5 A. Mm-hmm.

6 Q. I don't think it's necessary to refer
7 to that, but you will see that it indicates there that
8 the Peter Long Lake be moved from area 15, and that's
9 in the Muskosenda complex as you're aware of it in the
10 1983 guidelines?

11 A. Yes.

12 Q. Okay. That be moved and be part of a
13 new area to be called area 18, Peter Long Canoe Shed
14 Complex and that it be a compatible extension of area 7
15 the Grassy in the Gogama District in terms of primary,
16 secondary uses and permitted activities within the
17 area.

18 Now, would you agree with me that that
19 indicates there are going to be some boundary shifts
20 for DLUG purposes?

21 A. I would think so. I would agree with
22 you, but...

23 Q. Well, maybe for purposes --

24 A. I don't know specifically, okay. In
25 general terms, I could say yes.

1 Q. That's fine. For the purposes of my
2 question, that's all I'm asking. Now, if you would
3 turn over to the next page under Conclusions, I would
4 just like to look at the second paragraph there which
5 begins, and I think this is the key point:

6 "The most important change...", and this
7 is talking about the amendment, would you agree?

8 A. Yes.

9 Q. Okay.

10 "The most important change is to
11 incorporate the core (1) of the Grassy
12 system into one land use area for
13 both the Timmins and Gogama Districts.
14 This core area will also contain
15 identical land use activities for both
16 districts. This redefinition of the
17 boundaries would promote a coordinated
18 planning approach for the waterway system
19 and facilitate any future detailed
20 management planning for the area."

21 So would you agree with me that base just
22 on that paragraph it would appear that on the face of
23 the document the most important change in this
24 amendment appears to be a redefinition of the
25 boundaries in order to deal more effectively with the

1 Grassy River system or waterways?

2 A. Yes, it would.

3 Q. Okay. Now, if you just follow on in
4 the next paragraph, the paragraph -- the next paragraph
5 reads:

6 "Due to the realignment of area
7 boundaries to delineate the Grassy area,
8 minor adjustments are necessary to
9 surrounding boundaries in order to
10 minimize area fragmentation. These
11 boundary adjustments have not materially
12 altered the intent of any affected
13 lands and/or waters."

14 Now, based again just solely on what it
15 says in that sentence, it appears to be the position of
16 the Ministry of Natural Resources at this point in time
17 that this amendment is not intended to materially alter
18 the intent of any affected lands or waters. Would you
19 agree with me?

20 A. I agree that it's there, yes.

21 Q. Okay. That would be -- okay, that's
22 fair. Now, if you just turn over to the next page, the
23 paragraph at the top of page 3 -- or the page numbered
24 3 reads:

25 "Public response to the proposal should

1 be positive since it is reaffirming the
2 position to retain the Grassy area for
3 Crown land recreational use, an important
4 point raised during the district land use
5 guideline public participation program."

6 Would you agree with me that based on
7 that sentence, again on the face of the document, it
8 appears to be indicating that this amendment is a
9 follow up to input to the original district land use
10 guideline process in the sense that it is attempting to
11 deal more effectively with recreational use in the
12 Grassy area, just on the face of the document?

13 A. What part I'm reading here is the
14 Grassy area, but I'm assuming the Grassy area is the
15 area south of Marceau Lake, south of the Muskosenda
16 complex as it was defined in the previous document.

17 Q. Okay. Accepting --

18 A. But if it's saying it's reaffirming
19 the -- certainly there's a lot of fishing and hunting
20 goes on in that Grassy area and there are tourism camps
21 and there are bear hunters and, you know, it is an
22 active area, I would agree with that.

23 Q. So you would agree that on the face
24 of the document then that appears to be what this is
25 intended to do and that based on that, it's a follow up

1 to public participation during the original district
2 land use guideline?

3 A. It would appear to be that way.

4 Q. Okay. And the next sentence of the
5 document reads:

6 "Although the revision is not considered
7 major, comments have been sought from
8 NOTOA...", which is the Northern Ontario
9 Tourist Outfitters, in case you're not familiar with
10 it,

11 "...and MTR...", being Ministry of
12 Tourism and Recreation.

13 "Responses to date have been favourable."
14 And that's what the document indicates?

15 A. Right.

16 Q. Thank you. Now, one final question
17 in relation to the amendment. Am I correct that
18 regardless of what the amendment says or what it was
19 intended to do, would you agree that at no time has the
20 Ministry of Natural Resources indicated to you that the
21 reason they're rejecting or not agreeing to your
22 proposed 500 metres, they have never said to you that
23 the basis for that objection is because of this
24 amendment?

25 A. I think what happened was we were

1 using the previous document, the '83 district land use
2 guidelines as a basis for our arguments that primary
3 use was recreational, cottaging, tourism and at a
4 meeting, to the best of my ability, last year these new
5 guidelines were shown to us and in fact the wording had
6 been changed as far as land use intent was concerned,
7 and that that is what bothered us, that we interpreted
8 the change in wording as a change in emphasis.

9 Q. So what bothered you was not that the
10 Ministry was saying because of this document they
11 wouldn't accept your reserve; what bothered you was
12 that there was a change in wording that you felt was
13 significant to you?

14 A. Yes. I think in one of our meetings
15 I had indicated that the primary intent of the land use
16 was recreation, cottaging, tourism and then I don't
17 know who it was pulled out the land use guidelines and
18 read that, no, it wasn't, that it was -- it had been
19 modified and that was something that I had a little
20 difficulty with because I was going by the old
21 guidelines.

22 The new ones had been changed in I
23 believe '85 and I didn't see them until -- in fact, the
24 district office was still passing out the '83
25 guidelines last year.

1 Q. And in any event, you would agree
2 with me that the Ministry has advised you -- the
3 Ministry has advised you that whether you're looking at
4 the '83 document or at the '84 document, their position
5 remains the same with regard to your 500-metre reserve
6 proposal?

7 A. Yes, I would agree with that.

8 Q. Okay. And just while we're at it, I
9 may as well confirm, if you would turn to page 14 or
10 the page numbered 14 in Exhibit 1474, which is the
11 amendment package I filed.

12 A. I'm sorry, what page was that?

13 Q. It's numbered 14 at the top. I'm not
14 sure how far into the package it is.

15 A. Okay.

16 Q. The accepted -- this is again a page
17 which outlines acceptable and unacceptable uses, and if
18 you just refer to the item Forestry, this document
19 which is part of the amendment indicates:

20 "Consistent with the 1983 district land
21 use guideline, forestry is an acceptable
22 activity in area 15 for the Timmins
23 District Land Use Guideline."

24 And again indicates that:

25 "Modified forest management techniques

1 will be utilized within 120 metres
2 of...", and then it lists,
3 "...Muskosenda Lake, Ferrier Lake, the
4 Red Stone River, the Mountjoy River and
5 all cottaging lakes."

6 So if I can just shorten that up a bit,
7 basically that says that modified forest management
8 techniques will be utilized within 120 metres of all
9 cottaging lakes. And again, is that correct?

10 A. That's the way I read it, yes.

11 Q. Okay. And that's consistent with
12 what the 1983 district land use guideline says in terms
13 of forestry in area 15?

14 A. Yes.

15 Q. Thank you. Okay. Now, if we could
16 turn to the tourism guidelines briefly, please. Now, I
17 would just like to very briefly go through the items
18 related to your ski trail because it's my understanding
19 that you felt the ski trail was not being given the
20 consideration due to it under this Section 4.6.3 of the
21 tourism guidelines.

22 A. Okay.

23 Q. And I'm correct on your position?

24 A. Yes. We are quite aware of the fact
25 that these guidelines refer to tourist operators. Our

1 feeling was that ski trails should be viewed in the
2 same light for cottaging associations too.

3 Q. Okay. Let's look at it in that
4 context then. Now -- I'm sorry, do you have that, Mr.
5 Martel?

6 MADAM CHAIR: You have given us an
7 appendix.

8 MS. BLASTORAH: I'm sorry, I didn't give
9 you the exhibit number. It's exhibit number --

10 MR. LINDGREN: It's in the source book.

11 MS. BLASTORAH: It's an appendix, I beg
12 your pardon, Appendix L, I'm advised. I had my
13 guidelines, but...

14 Q. And it was Item 4.6.3 which is on
15 page 72 of the guideline. Now, I understand that when
16 the Ministry proposed relocating your trail, and I
17 believe the company also made a proposal in that
18 regard; correct?

19 A. That's true.

20 Q. So both the company and the Ministry
21 had indicated that they would be willing to relocate
22 your trail somewhere else?

23 A. Yes, and the Ministry suggested they
24 would build us a new trail.

25 Q. And I think that was also the

1 position of the company, they offered to do that work?

2 A. Yes.

3 Q. Okay. And you indicated, if I
4 correctly recall your evidence this morning, that you
5 weren't -- that that was not acceptable to the Marceau
6 Lake Cottagers Association because you had become
7 attached to your trail, I think was one thing you said?

8 A. Yes.

9 Q. And that basically it was well
10 established, I think I have your words correct, it was
11 well established and well used by the cottagers, and
12 I'm referring there to paragraph 23 of your evidence?

13 A. Yes.

14 Q. Now, I would just like to look at
15 that briefly because I was a little confused in going
16 over some of the correspondence, and I don't know
17 whether anybody else had the same trouble, and I would
18 just like to go over it quickly.

19 Would you turn to Appendix D in your
20 material, and that is exhibit 1434. Now, this is where
21 you are outlining areas -- this is your brief, let's
22 just identify it.

23 A. Right.

24 Q. So we're looking at the original
25 brief that your association put forward to the

1 Ministry?

2 A. Yes.

3 Q. And this is what you intended them to
4 rely on in preparing the prescriptions in the new plan?

5 A. Right.

6 Q. Okay. And I think the wording Mr.
7 Papineau used in his letter, which is your Appendix B,
8 he indicated to you in February, 1984 that in the new
9 plan for the Timmins Forest there would be
10 consideration for protection from logging for your
11 areas 2, 3 and 4?

12 A. Right.

13 Q. Okay. So in developing appropriate
14 considerations or appropriate measures from the
15 Ministry's point of view as to what would be
16 appropriate for those areas, you identified some
17 information to the Ministry to help them in doing that,
18 and your Item (a) deals with walking trails?

19 A. Right.

20 Q. And Item (b) deals with cross-country
21 ski trails?

22 A. Right.

23 Q. Okay. Let's look first at Item (b).

24 Item (b) reads:

25 "A cross-country ski trail has been used

1 for several years around the south
2 end of the lake."

3 A. Right.

4 Q. Now, that's a different area than
5 what we're talking about in stand 56?

6 A. That's right.

7 Q. At that time that's where you
8 identified the ski trail?

9 A. And that's area 3 on my 1984 map
10 which I showed to Papineau.

11 Q. Right. And that's Appendix A in your
12 material.

13 A. Right.

14 Q. So when you're talking about ski
15 trails in this brief, you're talking about area 3 which
16 is not stand 56.

17 A. That's true.

18 Q. Okay.

19 A. In the brief, mm-hmm.

20 Q. And under Item (a) you talk about a
21 walking trail and you indicate at that point that in
22 area 56 you identify here, I take it there you mean
23 stand 56?

24 A. Stand 56.

25 Q. Okay. That you have a walking trail:

1 "...an established walking trail that
2 runs through jack pine stands over
3 glacial eskers and through a unique bog
4 where pitcher plants grow. Plans are
5 already formulated for developing a
6 cross-country ski trail through this
7 area."

8 A. Mm-hmm.

9 Q. Okay. Now, you say there that plans
10 are developed and I think in your direct evidence, if I
11 recall correctly, you said that this was a walking
12 trail that was used and you had flagged it to prevent
13 hikers from becoming lost?

14 A. Yes, unfortunately we got lost one
15 night ourselves.

16 Q. And obviously you found your way out.

17 A. The next morning.

18 Q. Oh, my goodness. So you flagged it
19 for hikers and that the occasional person would use it
20 for skiing, I think that was your evidence-in-chief?

21 A. Yes.

22 Q. Okay. Now, in -- would you turn now
23 to Appendix J in your material, and I'm looking at the
24 second page of that letter and that is your letter to
25 Mr. Kerrio the then Minister of Natural Resources.

1 A. Mm-hmm.

2 Q. Okay. On the second page of that
3 document dated February 24th, 1978 you say -- you refer
4 to a cross-country ski trail and you indicate that:

5 "This trail was established as a walking
6 trail about eight years ago. Through the
7 years it has been brushed out and is not
8 now also used as a ski trail."

9 A. Right.

10 Q. And that would be about six months
11 after your initial brief was prepared?

12 A. Mm-hmm.

13 Q. Correct?

14 A. That would be correct.

15 Q. Okay. Now, would you turn to

16 Appendix R.

17 A. All right, yes.

18 Q. This is your letter to Mr. Bradley
19 the Minister of the day of Ministry of Environment?

20 A. Right.

21 Q. And if you would look at - I'm just
22 trying to locate the item myself - the second paragraph
23 on the second page of that letter.

24 A. Yes.

25 Q. You will see that there is a

1 reference there by you to a ski trail running through
2 an area destined to be clearcut.

3 A. Right.

4 Q. And can I assume there you are
5 talking about stand 56?

6 A. Yes.

7 Q. Okay. Now, you advise Mr. Bradley in
8 this paragraph that:

9 "The trail has been used for the last
10 eight years as a summer walking trail
11 and a winter cross-country ski trail."

12 Now, I would just like to clarify. This
13 letter now is written in March of 1988, so that's
14 roughly seven months after your initial brief.

15 So can I take it then when you say that
16 the trail has been used for the last eight years as a
17 summer walking trail, that's intended to be disjunctive
18 from 'and a winter cross-country ski trail', you didn't
19 intend to imply that that had been used as a ski trial
20 for eight years?

21 A. I honestly can't remember when we
22 started using that as a ski trail, it seemed like a
23 natural evolution from one to the other, but I can't be
24 specific as to when we started using that.

25 Q. Okay. Fair enough.

1 A. But it's an example of how things
2 grow from continued use.

3 Q. Okay. I'm just looking at what we
4 have here.

5 A. Right.

6 Q. Because I was a little confused.
7 Now, would you turn to your Appendix CC, and these are
8 your notes of the meeting with the company and Ministry
9 of Natural Resources.

10 A. Right.

11 Q. Would you look at the second page
12 there.

13 MADAM CHAIR: Which Appendix now?

14 MS. BLASTORAH: CC.

15 Q. And your Item (1) indicates that you
16 were talking to Mr. Fleet, I believe.

17 A. Right.

18 Q. And the last sentence of Item (1)
19 reads:

20 "He also indicated that it would take
21 into consideration the present location
22 of the ski trail due to the fact that it
23 has been in existence for over 15 years
24 and it was formally given protection by
25 the former district manager."

1 Now, this is what date, Mr. Tunnicliffe?
2 I believe this is July 10th, 1990; is that correct?

3 A. Yes.

4 Q. Okay. So are we still talking about
5 the same ski trail there?

6 A. We're talking about the same trail.
7 I'm not sure when you define the trail, in the summer
8 it's walking trail, in the fall it's a ski trail. I
9 suppose I could have said walking trail in the summer,
10 ski trail in the winter, kind of thing, but I'm
11 referring to the same trail.

12 Q. The same trail. Okay.

13 MADAM CHAIR: Ms. Blastorah, are you on
14 Appendix CC?

15 MS. BLASTORAH: Yes.

16 MADAM CHAIR: First or second page?

17 MS. BLASTORAH: I was reading from the
18 second page, Item (1), Mrs. Koven. I hope we're
19 looking at the same thing.

20 MADAM CHAIR: Oh yes, last sentence.
21 Thank you. Go ahead.

22 MS. BLASTORAH: Q. Okay. So we've
23 examined the evolution, if you will, of that trail and
24 there seems to my mind to be some confusion about how
25 long that's been there, you've made different

1 references at different points?

2 A. The trail has been there for 15 years
3 but as far as the actual use as -- well, as a ski
4 trail, it would be in the last few years.

5 Q. Okay, fair enough.

6 A. I can't tell you exactly when we
7 started to ski it.

8 Q. Okay. I was just trying to clarify
9 in my mind because I wanted to make sure we were
10 talking about the same trail in each case.

11 A. Okay.

12 Q. Fair enough. Now, you referred to
13 the tourism guidelines and you indicated that you felt
14 this trail had not been afforded adequate protection
15 under those guidelines. Now, first of all, I would
16 just like to clarify, you're aware that these are
17 guidelines?

18 A. Yes.

19 Q. And I think Mr. Chevalier mentioned
20 that to you in one of his letters where he indicated
21 that the guidelines are subject to interpretation.

22 A. I'm sorry, whose letter was that?

23 Q. I believe it was Mr. Chevalier. I
24 will have to locate that, if you will just give me a
25 moment. Sorry, Mr. Tunnickliffe, I thought I had

1 written this down but apparently I hadn't. Okay. This
2 is your Appendix Q.

3 And Mr. Chevalier here indicates that the
4 guidelines offer -- or actually, I should just read his
5 sentence:

6 "The tourism guidelines to which you
7 refer suggest that relocation is an
8 alternative where it would not involve
9 considerable replacement efforts."

10 And that in fact is contained in the
11 second paragraph of item 4.6.3. Now, let's just look
12 at what that paragraph says. I'm on the second
13 paragraph of the page 72 of the tourism guidelines.

14 A. Yes.

15 Q. Actually it's the third paragraph on
16 the page, the second paragraph in Item 4.6.3. And what
17 that paragraph reads in its entirety is:

18 "Where major hiking trails, cross-country
19 skiing or jogging trails constructed by
20 tourist operators...", and we've agreed
21 for purposes of our discussion we'll ignore that,
22 "...for guest use already exist and would
23 involve considerable replacement efforts,
24 attempt to avoid large clearcut
25 operations in the vicinity of the

1 system."

2 Now, would you agree that - and I think
3 you have agreed - that both the Ministry and Industry
4 have offered to relocate it?

5 A. Yes.

6 Q. And there's -- I think we've
7 attempted to clarify how long this trail has been in
8 existence, but in any event, this guideline indicates
9 that where it would involve considerable replacement
10 efforts, attempts should be made to avoid large
11 clearcut operations.

12 Now, you will agree that when the trail
13 was viewed by the Ministry --

14 A. Right.

15 Q. --the Ministry persons who reviewed
16 that trail, indicated that they didn't feel there was
17 any way that trail could really receive adequate
18 protection and still allow harvesting in stand 56
19 because of the nature of the terrain; am I correct?

20 A. That was their opinion.

21 Q. And as a result of that, they
22 suggested relocating the trail?

23 A. Yes.

24 Q. And that continued to be the position
25 of the Ministry, that they could offer you what they

1 recognized was minimal protection in a 10-metre reserve
2 along the trail or they would prefer to relocate it; am
3 I correct, that's the position --

4 A. You're correct in saying that, and I
5 think that -- and I think if we are forced to do it we
6 will have to do it, but our position is, we have used
7 that trail for 15 years, we feel that we have put a lot
8 into that and it's something that we enjoy, it's
9 something that some of our ministries in Ontario are
10 putting as a priority, there's a tremendous emphasis on
11 physical education now, the fact this education from
12 young children to old children, the Ministry of Tourism
13 and Recreation I think are pushing very strongly to
14 have the citizens of Ontario engaged in outdoor
15 activities, physical education activities, and I would
16 like to think that the various ministries in Ontario
17 would support that concept and possibly assist in it.

18 But, as I say, if we are forced to, as
19 lawful citizens of Ontario, and we don't have any other
20 choice, we will have to move it. But in the meantime
21 we are very much attached to that trail and that's what
22 we're saying.

23 Q. And you'd agree that there was no
24 attempt by the Ministry of Natural Resources to prevent
25 you from having a trail, you've indicated you feel

1 they're important.

2 A. Yes.

3 Q. And there's no attempt to prevent you
4 from having a trail?

5 A. That's true.

6 Q. And they haven't required you to have
7 a land use permit or anything, although that's what
8 might be required; they haven't asked you to that?

9 A. Yes, and if they ask us for that we
10 certainly would apply for that.

11 Q. Okay, fair enough. In any event,
12 it's not a question of trail or no trail, it's really a
13 question of where the trail is going to be?

14 A. Trail or no trail. Like, we would
15 like to have a trail and we would like the trail where
16 it is in its present location.

17 Q. And you have indicated you would like
18 to have a trail and the Ministry has offered to put it
19 somewhere else and the Industry has offered to put it
20 somewhere else; correct?

21 A. That's correct.

22 Q. But you would like to have it in its
23 present position?

24 A. Exactly.

25 Q. Okay. Now, I think one of the other

1 things you indicated in - I don't recall frankly
2 whether it was cross-examination or direct or both -
3 but I think that you indicated that another objection
4 you had to relocating the trail was the fact that, for
5 instance, the Industry's proposal would move it farther
6 away from the cottage lots?

7 A. That's true.

8 Q. Now, you'll agree with me that your
9 original brief indicates that you already have a trail
10 at the south of the lake?

11 A. That's right, and we were using that
12 and sometimes we still use that.

13 Q. Okay.

14 A. When it's 30 below outside it's kind
15 of hard and often we won't use that trail because you
16 freeze yourself going down and using that trail, but if
17 it's close to the cottage and you can get out for a
18 quick turn and back in, it's really good, but when it's
19 30 below, that's a consideration.

20 Q. So you do still use the trail at the
21 south end of the lake?

22 A. Oh, yes. It's a nice trail on a
23 beautiful warm day.

24 Q. And that would be farther away than
25 the trail that was proposed by the Industry?

1 A. Yes.

2 Q. And you also indicated, I think in
3 your brief or subsequent correspondence, that it was
4 the intent of the Marceau Lake Cottagers Association to
5 develop a ski trail system around the lake, although
6 that hadn't been done yet?

7 A. That's right.

8 Q. So you'd agree that your problem is
9 not necessarily with having trails farther away from
10 the cottage lots; is that true?

11 A. No, we would far prefer to have it
12 near the cottage lots. We have a lot of members of our
13 association who are not -- they're not willing to go
14 out when it's 30 below and go for a long ski trail
15 around the lake, but if there's a ski trail behind
16 their cottage, then they'll be inclined to use it.

17 Q. I see, okay. Well, I won't take a
18 lot more time. I think we have clarified your
19 position. Perhaps just one more question on that. The
20 location of the trail as it was proposed by the
21 Industry, were they intending to relocate it?

22 A. Yes.

23 Q. Am I correct that's just adjacent to
24 the Papakomeka Road but further south?

25 A. Yes.

1 Q. Okay, thank you. Now, one other item
2 I would like to come back to briefly is the proposal
3 for a skyline reserve across from the cottages?

4 A. Yes.

5 Q. Now, that was the original proposal I
6 believe; correct?

7 A. Yes.

8 Q. So that's what you first saw?

9 A. That's what we first saw. The
10 difficulty has always been establishing where that
11 skyline reserve is.

12 Q. Okay, fair enough. Now, in Appendix
13 G, would you turn to that, please, Appendix G in your
14 material. Mr. Lindgren took you to Appendix G this
15 morning and referred you to a specific section on the
16 second page, and he referred you to the part of a
17 sentence there, or the sentence that reads:

18 "However, the 120-metre size is a
19 guideline only."

20 And this is the letter from Mr.
21 Chevalier?

22 A. Right.

23 Q. Do you recall that exchange this
24 morning?

25 A. Yes.

1 Q. Now, when Mr. Lindgren referred you
2 to that, I rose and was going to interject and Mr.
3 Lindgren asked me to wait my turn, and that's fair
4 enough, so I would like to take the opportunity at this
5 point to just clarify what I wanted to clarify at that
6 point. The rest of that paragraph reads, starting with
7 the same sentence:

8 "However, the 120-metre size is a
9 guideline only with variations possible
10 in both the size of the buffer and the
11 timber activities allowed. We have
12 agreed on one such variation in having a
13 skyline reserve on the west side of
14 Marceau Lake."

15 So when Mr. Lindgren asked you, referred
16 you to that paragraph and asked you whether you thought
17 a 120-metre reserve was adequate, your response was not
18 intended to address the situation we're dealing with
19 here; am I correct?

20 A. I don't understand your question.

21 Q. Okay, perhaps I can restate it. He
22 asked you whether you thought a 120-metre reserve on
23 the lake was adequate?

24 A. Right.

25 Q. And he referred you to this

1 paragraph.

2 A. Yes.

3 Q. But there is not a proposed 120-metre
4 reserve in this situation; am I correct?

5 A. You're correct.

6 Q. So the reserve that is proposed in
7 this situation is actually a skyline reserve?

8 A. Right.

9 Q. So any comments that you made
10 relating to the adequacy of a 120-metre buffer on the
11 far side of the lake really had nothing to do with the
12 proposal that is before you and has been before you
13 from the beginning?

14 A. Well, this brings up another question
15 and that is: What is the proposal before us right now?
16 We have had--

17 Q. Well, I just...

18 A. --different proposals, but that is
19 certainly one of them, one of the proposals, but I
20 don't know what I have right now.

21 If I were to say today to the Ministry of
22 Natural Resources: Okay, let's settle it, you know,
23 give me your last offer, I have no guarantee I would
24 get their last offer. You know what I'm saying.

25 Q. Well, I think so. I'm a little

1 concerned because I think that there was a formal offer
2 put to you relatively recently by the Ministry of
3 Natural Resources; is that right?

4 A. There's a document in here somewhere
5 and I have to look through it that says everything is
6 off the table, that we're back to square one again, and
7 I don't have the reference to it, but...

8 Q. Fair enough.

9 A. Like, I assume nothing.

10 Q. Okay.

11 MADAM CHAIR: Excuse me, Mr. Tunnicliffe.
12 Remind the Board what size reserve you think that you
13 might have -- that's on the table for discussion if
14 you're still discussing these matters with respect to a
15 skyline reserve?

16 THE WITNESS: I would hope that what I
17 have achieved is a skyline reserve on the west side of
18 Marceau Lake at least 250 metres from shore.

19 MS. BLASTORAH: Q. And we just agreed a
20 moment ago that that was the original proposal, a
21 skyline reserve on the west side of Marceau Lake.

22 A. Yes.

23 Q. And that was what was initially put
24 before the Marceau Lake Cottagers Association, you
25 agreed to that?

1 A. Initially, yes.

2 Q. And you indicated I think in
3 cross-examination by Mr. Cassidy or perhaps in direct
4 that you had walked that reserve with Mr. Fleet and
5 measured it at a minimum of 250 metres.

6 A. Right.

7 Q. Okay. So that's what we're talking
8 about in Appendix G, when Mr. Chevalier refers to a
9 skyline reserve, that's your understanding of what he's
10 offering?

11 A. That's my understanding, but I have
12 difficulty with the definition of a skyline reserve. I
13 want to make sure when there is a skyline reserve that
14 there's no -- that I can't see through the trees and,
15 you know, I have photographs to show you in some
16 instances where you can see right through the trees and
17 that is not what I want.

18 Q. Okay. I would like to go to those
19 now, but I would just like to clarify once again that
20 at least at the point that you walked the skyline
21 reserve, the proposed area--

22 A. Right.

23 Q. --walked the proposed area with Mr.
24 Fleet, the reserve that you measured at that time was a
25 minimum of 250 feet?

1 A. Yes, I would agree with that.

2 Q. Thank you. Now, I would just like to
3 turn to the photographs that you were referring to.

4 MR. MARTEL: Did you say metres or feet?

5 MS. BLASTORAH: I'm sorry. If I said
6 feet I meant metres. I don't want to confuse things
7 further, at least in my own mind. Thank you, Mr.
8 Martel.

9 Q. Now, I would like to turn to Exhibit
10 1469. I think --

11 MADAM CHAIR: Excuse me. Ms. Blastorah,
12 where are we?

13 MS. BLASTORAH: 1469 which is a package
14 of new photographs filed by Mr. Tunnicliffe.

15 MADAM CHAIR: Yes, thank you.

16 MS. BLASTORAH: Q. Now, I don't want to
17 spend a great deal of time on these, Mr. Tunnicliffe,
18 but I just got these yesterday afternoon after the
19 hearing and consequently I didn't obviously have an
20 opportunity to ask interrogatories on these, and there
21 are a number of captions on these photographs which you
22 didn't address during your direct evidence.

23 A. Right.

24 Q. And, as a consequence, I don't have
25 any answers to some questions I had. If you just look

1 at photograph No. 1.

2 A. Right.

3 Q. That photograph is entitled: Canoe
4 Route Triple Lake.

5 A. Right.

6 Q. And the caption reads that:

7 "This photo was taken of the east side
8 Triple Lakes about 1.5 kilometres
9 downstream from Marceau Lake. Canoe
10 routes are supposed to be protected by
11 a 250-metre reserve."

12 Could you just tell me what the basis of
13 that statement, that canoe routes are supposed to be
14 protected by a 250-metre reserve, what's the basis for
15 that statement?

16 A. That could be wrong and I would have
17 to ask the Ministry for a definition of that, it could
18 be 125 metres, and in reviewing some of the things that
19 I've seen here possibly 120 metres is the correct
20 figure.

21 Q. Okay, fair enough. So you're not
22 sure whether that's correct?

23 A. That's right.

24 Q. Fair enough. And when you say canoe
25 routes, I would just like to clarify, are we talking

1 about legislated provincial waterway parks or are we
2 talking about designated canoe routes?

3 A. We're talking about designated canoe
4 routes, the type that you could walk into the Ministry
5 of Natural Resources in Timmins and pick up a pamphlet
6 that describes the start, the end, the rapids, the camp
7 sites, the points of interest along the way, that kind
8 of canoe route.

9 Q. Okay, thank you. Is this reserve in
10 this photo -- you took this photograph; did you?

11 A. Yes, I did.

12 Q. Okay. Do you know whether that
13 reserve is 250 metres or 120 metres, or how wide that
14 is?

15 A. I don't know how wide it is.

16 Q. Okay, thank you. I would like to
17 move on to photograph No. 2 then. I'm sorry, I seem to
18 have lost my questions -- here we are.

19 Oh, just turn back to photograph 1 for
20 just a moment. Do you have any idea whether the
21 reserve that is indicated on photograph No. 1 is in
22 accordance with the approved plan for that area, the
23 approved timber management plan?

24 A. You mean by that whether it's 120
25 metres?

1 Q. Well, I'm just asking if you know
2 what the prescription was for that area?

3 A. No. I would assume it was 120
4 metres.

5 Q. Okay. So you don't know? That's
6 fair enough, I'm just asking.

7 A. Somewhere I have seen that there is
8 definite description of canoe routes that should be
9 protected.

10 Q. Okay. So if you're saying 120
11 metres--

12 A. I'm saying 120 metres.

13 Q. --you're basing that on something
14 that you think applies to canoe routes?

15 A. Yes.

16 Q. Okay, fair enough. Now, the second
17 photograph is captioned: Canoe Route, Triple Lakes, and
18 rest of the caption reads:

19 "This photo was taken of the west side of
20 Triple Lakes. Again, a clearcut can be
21 seen through the trees. This is also
22 part of a recognized canoe route."

23 And again we're talking here about a
24 designated canoe route; am I correct?

25 A. Yes.

1 Q. Not a waterway park?

2 A. That's right.

3 Q. Do you know how wide this reserve is?

4 A. No, I don't.

5 Q. And again, am I correct that you
6 don't know whether that would be in accordance with
7 whatever had been prescribed for that --

8 A. No, I wouldn't. I just know that I
9 can see daylight through the trees, and that's my
10 concern.

11 Q. Okay, thank you. Now, photograph No.
12 3 is captioned: Canoe Route, Triple Lakes, Aerial
13 View. And the rest of the caption reads:

14 "This photograph was taken from the air
15 showing Triple Lakes and the clearcuts on
16 either side of the lake."

17 Again, do you know how wide those
18 reserves are?

19 A. No. I don't have the facility to
20 measure.

21 Q. No, I'm not expecting you to, Mr.
22 Tunnickliffe.

23 A. And the question was asked before of
24 the 500 metres. Anybody who has walked through the
25 bush, you know, you have trouble following a straight

1 line let alone knowing, you know, by marking out your
2 footsteps how far you've gone.

3 Q. Certainly. I didn't mean to imply
4 that you should know, because I didn't have a chance to
5 ask you before I would just like to clarify a few
6 factual matters.

7 A. Okay.

8 Q. Okay. The next photograph No. 4 is
9 titled: False Road, and I thought you said that was
10 your term for a trespass in this case, false road being
11 a road that was cut --

12 A. I'm not sure whether trespass is the
13 right word but, yes, it was a mistake. A road that was
14 cut by mistake.

15 Q. Okay. In fact the caption reads:
16 "This road was mistakenly cut off the
17 Telluride Road in the late summer of
18 1987. It was an effort to reach an area
19 about 1.5 kilometres southwest of Marceau
20 Lake. This photograph was taken in
21 September of 1990. The poplar logs cut
22 in 1987 were left there to rot. The road
23 extends for about 800 metres and ends at
24 Bartlett Creek, a cold water fishery."
25 And I would just like to clarify that's

1 the trespass that's addressed in Appendix E of your
2 material which is a letter from Mr. Chevalier? Perhaps
3 you could just confirm that.

4 A. Yes, that's the one where he talks
5 about, 'the company has been assessed a penalty for the
6 infraction as per the Crown Timber Act and
7 rehabilitation of the area is presently being
8 discussed'.

9 Q. And you indicated this morning that
10 you didn't know whether that meant it was being left
11 for natural regeneration or you didn't know what
12 mitigation had been taken?

13 A. That's true.

14 Q. Okay. And I can see from the
15 photograph here that from whatever source there does
16 appear to be some regeneration on that site; would you
17 agree with me?

18 A. Yes.

19 Q. Okay.

20 A. The poplar is coming back very quick.

21 Q. Okay, thank you. And just on the
22 fifth photograph, I just have one question on that.
23 Could you tell me what time of the year that photograph
24 was taken?

25 A. That was taken again in September of

1 1990.

2 Q. Thank you. And photograph No. 6 in
3 this package is captioned:

4 "Clearcut, east side of Marceau Lake."

5 Am I correct that this shows the windrows
6 that were shown in your other slides you showed
7 earlier?

8 A. Yes, that's true.

9 Q. Okay, thank you. And am I also
10 correct, while I'm on that photograph, that that area
11 was -- and this is stand 56; is it?

12 A. I believe I was corrected this
13 morning that it's the smaller area that you can see in
14 the mid-foreground that is area 56. You can see a wide
15 clearcut in the foreground, and then in the middle
16 background there's a smaller clearcut. I would say
17 now, from what I was told this morning, that is area
18 56.

19 Q. Okay.

20 A. I could be corrected on that, but...

21 Q. Looking at that one then, am I
22 correct that that area was site prepared in the winter
23 and planted this past spring?

24 A. Yes, it was planted this past spring
25 and the site prepared --

1 Q. Well, perhaps --

2 A. Yes, in the sense in the winter --
3 the winter was when they harvested, they harvested in
4 February of this year, okay, and planted I understand
5 this summer.

6 Q. And again, you probably are not
7 familiar with forestry terminology so I should explain
8 what I mean by site prepared. If I were to advise you
9 that the long columns of brush that you see here are
10 something called windrows--

11 A. Yes.

12 Q. --and that's a site preparation
13 technique--

14 A. Yes.

15 Q. --to prepare for planting.

16 A. Yes, I see what you're saying.

17 Q. You would agree that it was
18 windrowed?

19 A. Yes.

20 Q. Thank you.

21 MS. BLASTORAH: Mrs. Koven, I'm just
22 about finished I think, I shouldn't be too much longer.
23 I'm just trying to eliminate some questions as I go
24 based on Mr. Cassidy's cross-examination. If I could
25 have your indulgence for a moment.

1 MADAM CHAIR: Take your time.

2 MS. BLASTORAH: Always time to eliminate
3 questions.

4 Q. Okay, Mr. Tunncliffe, then I would
5 just like to come back to a statement that you made in
6 paragraph 41 of your witness statement. I seem to have
7 misplaced mine. Paragraph 41 reads in part that you
8 felt the Ministry of Natural Resources must be willing
9 to take input seriously, take the input seriously and I
10 guess there you're referring to your input; are you?

11 A. Yes.

12 Q. And be prepared to make concessions.
13 Okay. Now, would you agree with me that whether or not
14 you're happy with what's been offered by the Ministry
15 of Natural Resources, and I accept that you're not
16 happy with what's been offered by the Ministry of
17 Natural Resources; am I correct?

18 A. Yes, that's true.

19 Q. Okay. And it remains your position
20 that what is required to address your concerns or what
21 you would prefer is a 500-metre reserve around the
22 lake; that's still your position?

23 A. That's our position.

24 Q. Okay. Would you agree that
25 regardless of how you feel about the proposals that

1 have been put forward by the Ministry, would you agree
2 that there has been some movement by the Ministry in an
3 attempt to address your concerns?

4 A. Yes, I would.

5 Q. Okay. And I think you indicated in
6 your direct evidence that the latest proposal put
7 forward by the Ministry was in fact, in your opinion, a
8 tremendous improvement?

9 A. That's true.

10 Q. And that was in fact the proposal
11 that was most recently rejected by the Marceau Lake
12 Cottagers Association?

13 A. That's true.

14 MS. BLASTORAH: Okay. I don't believe
15 that's been filed to this point in time and I would
16 like to do that now.

17 And again, I provided your counsel with a
18 copy of that this morning, although I'm sure you're
19 familiar with that, and we also had a copy for you.

20 Yes, I'm sorry. I was going to file it
21 but it was already filed by Mr. Lindgren.

22 MR. LINDGREN: That's correct, it's in
23 Exhibit 1465, attached as part of the correspondence
24 found after MNR Question No. 24.

25 MS. BLASTORAH: Thank you.

1 Q. And I would just like to refer to
2 your photograph or your slide 21, briefly.

3 MS. BLASTORAH: I'm sorry, that has been
4 filed, Mrs. Koven, correct.

5 MADAM CHAIR: Yes, I just wanted to check
6 the date. Yes, August 9th.

7 MS. BLASTORAH: Okay.

8 Q. I would like to refer briefly to a
9 letter of July 10th, 1990 which I believe has been
10 filed as part of an interrogatory and if you will bear
11 with me again for a moment, I'll try and locate that.
12 I had a number of these documents isolated to be
13 marked, but I think they're already marked.

14 Yes, it's part of MNR Interrogatory No.
15 22 which was marked by Mr. Lindgren as Exhibit 1465,
16 and that interrogatory attaches -- oh, I'm sorry, it's
17 part of Question No. 24 - my pages are stapled too
18 closely together - and that interrogatory attaches a
19 letter from you to the Honourable Lyn McLeod, then
20 Minister of Natural Resources and that letter is dated
21 July 10th, 1990.

22 Now, you state in part in this letter,
23 and I'm referring to the first --

24 A. I'm sorry, I don't have that letter.
25 I have a letter from Lyn McLeod to me following that.

1 Q. I think that is Interrogatory No. 23.

2 A. 22.

3 Q. Try 24, Mr. Tunnickliffe.

4 A. Yes, okay.

5 Q. I'm sorry, I'm not as organized as I
6 would like to be. Okay. So you have the letter now of
7 July 10th, 1990?

8 A. Yes, I do, yes.

9 Q. Now, there is a long paragraph in
10 that letter and one of the sentences in that letter
11 reads as follows:

12 "The whole environmental assessment
13 process that we are attempting to follow
14 becomes a farce when your Ministry takes
15 the position that it is tired of waiting
16 for the democratic process to occur and
17 decides to employ the heavy hand of
18 closure."

19 Now, when you say 'the heavy hand of
20 closure' in that letter, are you referring to the fact
21 that the Ministry advised you that if there was no
22 agreement on their proposal there were a number of
23 options that could be pursued. That's what you're
24 referring to?

25 A. Yes, not -- exactly what it's

1 referring to is the, as I remember the meeting, there
2 was to be a final proposal made by Ministry of Natural
3 Resources and it could be a final proposal, we would
4 have to accept and that we wouldn't have any choice
5 after that, that was one of the proposals. Now, that
6 will be described in the meeting minutes that I took of
7 that meeting.

8 Q. Right, and those --

9 A. That was my feeling, that MNR had
10 considered removing the Ministry of the Environment
11 from the whole process and taking it over themselves
12 and forcing a settlement on it.

13 Q. Now, that's what your stating, it's
14 your impression. First of all, with regard just to
15 those minutes, and I can't lay my hands on them right
16 now, I think that you indicated --

17 MADAM CHAIR: Appendix CC.

18 MS. BLASTORAH: Q. Appendix CC I
19 believe. Okay. Now, you indicated just now what your
20 impression was at the time of that meeting?

21 A. That's right.

22 Q. Am I correct that you showed these
23 minutes at that meeting to Mr. Fleet?

24 A. Yes.

25 Q. And that he indicated he was not

1 entirely in agreement with what they expressed?

2 A. These were the minutes that I took
3 and I wrote down within 20 minutes of our meeting with
4 Industry, so that was the impression that I was left
5 with.

6 Q. Right. So those --

7 A. They are not official minutes.

8 Q. Right.

9 A. They are not approved by anybody and
10 they are noted as simply notes by myself.

11 Q. Fair enough. So that was your
12 impression and Mr. Fleet indicated that he didn't
13 necessarily agree with everything that was said there?

14 A. Okay.

15 Q. Okay. Fair enough.

16 A. Mm-hmm.

17 Q. Now, would you agree that to this
18 point in time the Minister of the Environment is still
19 considering your designation request?

20 A. Yes.

21 Q. So in that sense --

22 A. Now, let me -- maybe I should qualify
23 that. I know there is a letter and the letter has been
24 filed where Dr. Buyer has been asked to do an EAAC
25 assessment. I have not received that officially

1 myself, so I have never been told officially.

2 Q. So there is no intention, when you
3 say closure, to imply that by the fact that the
4 Ministry of Natural Resources indicated that they
5 might, or if in fact it was the position of the
6 Ministry of Natural Resources that they were going to
7 make a decision, there was no intention to imply that
8 you were being denied access to the Minister of the
9 Environment?

10 A. Yes, there was. It was -- exemption
11 order 11-9, as I understood, could be invoked and that
12 would mean that we would no longer have any recourse to
13 the Ministry of the Environment, that my understanding
14 was that the Minister of Natural Resources, the
15 Ministry of Natural Resources would take over the
16 dispute and settle it themselves. That was my
17 impression from that meeting.

18 Q. And that was your understanding?

19 A. That was my understanding.

20 Q. Okay, fair enough.

21 MADAM CHAIR: Excuse me, Ms. Seaborn.

22 MS. SEABORN: Yes, Madam Chair?

23 MADAM CHAIR: Mr. Tunncliffe has just
24 said that he has received no communication from Dr.
25 Buyer from the Environmental Advisory -- or Assessment

1 Advisory Committee. Have you seen a response from Dr.
2 Buyer on this matter, the request by Mr. Bradley?

3 MS. SEABORN: From Mr. Bradley's letter?

4 MADAM CHAIR: Mm-hmm.

5 MS. SEABORN: No. I understand there was
6 no response to Mr. Bradley because the election
7 intervened the first week in September. That letter is
8 dated August 31st, and so it's my information that
9 there was not a response from Dr. Buyer to Mr. Bradley.

10 MR. CASSIDY: I might also note for the
11 record that Mr. Tunncliffe and the association are not
12 the only party that did not get notice of the referral
13 to EAAC, Quebec and Ontario Paper also was not notified
14 of the referral and received the notice through the
15 good offices of Mr. Fleet, as I believe Mr. Tunncliffe
16 did.

17 MS. BLASTORAH: Q. Now, I just wanted to
18 clean up one or two small items, Mr. Tunncliffe. When
19 you were showing your slides this morning, and I don't
20 think it's necessary to refer to them, but one of those
21 slides, which was No. 21, showed some logs on a harvest
22 site.

23 A. Mm-hmm.

24 Q. And you indicated when you gave your
25 evidence this morning that you had asked Mr. Fleet

1 about what was happening with those logs.

2 Am I correct that Mr. Fleet responded to
3 you that he would have his staff investigate and that
4 there were considerable operational difficulties due to
5 the amount of snow in that area, and I think that he
6 advised you that it was greater than five feet; is that
7 correct?

8 A. I'm not sure of the amount of snow
9 but certainly Mr. Fleet, in fact we asked for -- he
10 asked for some of my photographs so he could take them
11 and ensure that that was fixed up.

12 Q. And he advised you that the company
13 was not yet finished operating in that area?

14 A. That's right.

15 MS. BLASTORAH: I think I may be
16 finished, Mrs. Koven, I'm just trying to clarify.

17 MADAM CHAIR: Thank you.

18 MS. BLASTORAH: I think those are all my
19 questions, Mrs. Koven. Thank you very much, Mr.
20 Tunnickliffe.

21 MADAM CHAIR: Thank you very much, Mrs.
22 Blastorah.

23 Mr. Lindgren?

24 MR. LINDGREN: I have no questions, Madam
25 Chair.

1 MADAM CHAIR: Thank you very much. Mr.
2 Tunnickliffe, you are finished.

3 THE WITNESS: Thank you very much.

4 MADAM CHAIR: The Board appreciates your
5 presence here and I had the pleasure of meeting your
6 daughter Robin at the break and I wish Robin every
7 luck. I understand she's interested in the
8 environmental area, perhaps she will become a lawyer.

9 MS. BLASTORAH: I was just going to say,
10 tell her not to become a lawyer.

11 MR. CASSIDY: Mr. Martel is shaking his
12 head in the negative fashion, let the record show.

13 MADAM CHAIR: Thank you very much. We
14 will begin tomorrow at nine o'clock.

15 MS. BLASTORAH: Thank you.

16 ---Whereupon the hearing was adjourned at 4:20 p.m.,
17 to be reconvened on Wednesday, October 24th, 1990,
18 commencing at 9:00 a.m.

